Abstract

Drawing on interviews with youth and youth professionals, this dissertation explores institutional humanism in the lives of the young people who took part in the study by focusing on the operationalization of humanist categories and exclusions in criminal justice, immigration, social welfare, and education policies. Examining the role of policy in the production of precarity, I argue that humanism is smuggled into institutional practice through racism, sexism, classism, ageism, and ableism, which, as expressions of being less than human, depend on the separation of the human (culture) from the non-human (nature) at the core of humanist thought. By creating conditions within which certain bodies are dehumanized and others are humanized, policies perform particular figurations of the human and sub/non-human; via these processes law and policy maintain race, class, gender, and species hierarchies.

To make this argument, I analyse four performances that establish the separation of criminalized refugee youth from the human category: the erasure of personal histories, denial of human rights, production of disposability, and subjection to violence. These conditions are prompted by existing narratives that construct criminals, Muslims, Black people, youth, and refugees as less than human (closer to nature). Institutional policies and practices both reinforce and are sustained by discourses of humanity and animality that produce precarity as part of the “anthropological machine” that determines whose body and knowledge matters and who may be subjected to violence and denied rights and protections. These ontological and epistemological questions underscore the fragility of the human conceived as a separate and superior species. Focusing on species also offers a new way to consider how power and identity are inscribed in the lives of refugees and criminalized persons in Canada. Since addressing injustice at a deep level requires consideration of how human/nature dualisms underwrite violence, dispossession, and injustice, my aim is not the extension of liberal humanism to excluded Others, but a transformation of humanism.
Preface

This dissertation is an original intellectual product of the author, Jenny Francis. The fieldwork reported in Chapters 5-8 was covered by UBC Behavioural Research Ethics Board (BREB) Certificate number H13-01728.
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<th>Description</th>
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<tbody>
<tr>
<td>AA</td>
<td>Alcoholics Anonymous</td>
</tr>
<tr>
<td>ADHD</td>
<td>Attention Deficit Hyperactivity Disorder</td>
</tr>
<tr>
<td>ATIP</td>
<td>Access to Information and Privacy</td>
</tr>
<tr>
<td>BC</td>
<td>British Columbia</td>
</tr>
<tr>
<td>BREB</td>
<td>Behavioural Research Ethics Board</td>
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<tr>
<td>BYCC</td>
<td>Burnaby Youth Custody Centre</td>
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<tr>
<td>CBC</td>
<td>Canadian Broadcasting Corporation</td>
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<tr>
<td>CBSA</td>
<td>Canadian Border Services Association</td>
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<tr>
<td>CCR</td>
<td>Canadian Council for Refugees</td>
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<tr>
<td>CRF</td>
<td>Charter of Rights and Freedoms</td>
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<tr>
<td>CHRA</td>
<td>Canadian Human Rights Act</td>
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<tr>
<td>CSC</td>
<td>Correctional Services of Canada</td>
</tr>
<tr>
<td>DCC</td>
<td>Downtown Community Court</td>
</tr>
<tr>
<td>DNA</td>
<td>Deoxyribonucleic Acid</td>
</tr>
<tr>
<td>DO</td>
<td>Dangerous Offender</td>
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<tr>
<td>DTES</td>
<td>Downtown Eastside</td>
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<tr>
<td>ELL</td>
<td>English Language Learner</td>
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<tr>
<td>FOI</td>
<td>Freedom of Information</td>
</tr>
<tr>
<td>GAR</td>
<td>Government Assisted Refugee</td>
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<tr>
<td>ICESCR</td>
<td>International Covenant on Economic, Social, and Cultural Rights</td>
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<tr>
<td>ID</td>
<td>Identity Document</td>
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<tr>
<td>IPO</td>
<td>Institutional Probation Officer</td>
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<tr>
<td>IQ</td>
<td>Intelligence Quotient</td>
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<tr>
<td>IRB</td>
<td>Immigration and Refugee Board</td>
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<tr>
<td>IRCC</td>
<td>Immigration, Refugees and Citizenship Canada</td>
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<tr>
<td>IRPA</td>
<td>Immigration and Refugee Protection Act</td>
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<tr>
<td>ISSoBC</td>
<td>Immigrant Services Society of British Columbia</td>
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<tr>
<td>ISSP</td>
<td>Intensive Support and Supervision Program</td>
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<tr>
<td>LCR</td>
<td>Landed in Canada Refugee</td>
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<tr>
<td>MCFD</td>
<td>Ministry of Children and Family Development</td>
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<tr>
<td>MSD</td>
<td>Ministry of Social Development</td>
</tr>
<tr>
<td>NA</td>
<td>Narcotics Anonymous</td>
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<tr>
<td>NEET</td>
<td>Not in Employment or in Education or Training</td>
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<tr>
<td>NGO</td>
<td>Non-Governmental Organization</td>
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<td>NHS</td>
<td>National Household Survey</td>
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<tr>
<td>NIMBY</td>
<td>Not In My Back Yard</td>
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<tr>
<td>OCI</td>
<td>Office of the Correctional Investigator</td>
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<td>OIC</td>
<td>Office of the Information Commissioner</td>
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<tr>
<td>PO</td>
<td>Probation Officer</td>
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<td>PR</td>
<td>Permanent Resident</td>
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<td>PSR</td>
<td>Pre-Sentence Report</td>
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<tr>
<td>PTSD</td>
<td>Post-Traumatic Stress Disorder</td>
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<tr>
<td>PWD</td>
<td>Person With a Disability (MSD designation)</td>
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<tr>
<td>RAP</td>
<td>Resettlement Assistance Program</td>
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<tr>
<td>Abbreviation</td>
<td>Description</td>
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<tr>
<td>RCMP</td>
<td>Royal Canadian Mounted Police</td>
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<tr>
<td>RCY</td>
<td>Representative for Children and Youth</td>
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<tr>
<td>REM</td>
<td>Rapid Eye Movement</td>
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<tr>
<td>SES</td>
<td>Socio-Economic Status</td>
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<tr>
<td>SLO</td>
<td>School Liaison Officer</td>
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<tr>
<td>SRO</td>
<td>Single Room Occupancy</td>
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<tr>
<td>SWIS</td>
<td>Settlement Worker in Schools</td>
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<tr>
<td>TCI</td>
<td>Therapeutic Crisis Intervention</td>
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<tr>
<td>TR</td>
<td>Temporary Resident</td>
</tr>
<tr>
<td>TV</td>
<td>Television</td>
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<tr>
<td>UBC</td>
<td>University of British Columbia</td>
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<td>UK</td>
<td>United Kingdom</td>
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<tr>
<td>UN</td>
<td>United Nations</td>
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<tr>
<td>UNHCR</td>
<td>United Nations High Commission for Refugees</td>
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<tr>
<td>US</td>
<td>United States</td>
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<tr>
<td>VPD</td>
<td>Vancouver Police Department</td>
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<tr>
<td>YCJA</td>
<td><em>Youth Criminal Justice Act</em></td>
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Chapter 1. Introduction

“That the ‘human’ has a history is well known to those who are routinely and violently excluded from its ideological terrain...Just who counts as human, and why is a contentious debate within humanist discourse, a discourse mired in imperial histories of expansion, scientific experimentation, and industrial revolution. The human may, in fact, be one of our most elastic fictions” (Fuss 1996, 1-2).

“The discursive tie between the colonized, the enslaved, the non-citizen, and the animal—all reduced to type, all Others to rational man, and all essential to his bright constitution—is at the heart of racism and flourishes, lethally, in the entrails of humanism...Species reeks of race and sex” (Haraway 2008, 18).

“It is impossible to analyze and to discuss notions of race, past and present, without also engaging with the deployment of the animal as a category and concept” (Salih 2007a, 99).

1.1 Beginnings

In 2010 I was working at an immigrant serving agency in Metro Vancouver assisting the clients that others in the agency felt were too unstable to work with. Among the many heart wrenching stories I heard, one young man’s account particularly touched me. “James” came to Canada aged 17 from Sudan after spending 10 years in a refugee camp. Soon after arrival he became involved in criminal activity and served a number of prison sentences. By the time he came to my office, James had been in Canada for seven years without ever having had a job or stable housing, he was frequently homeless, had no identity documents, suffered from undiagnosed mental health concerns, many of his relationships were marked by violence, and he was functionally illiterate.

While working with James, I was struck by the realization that despite years of continuous contact with both settlement services and the criminal justice system, including a 14 month stint in prison in Saskatchewan, James had not received the supports he needed to build a stable life. Sadly, I met a number of young men in similar circumstances. The question that confronted me while working with James is the question that initially animated my doctoral research. That is, with all the resources available in Canada, how is it possible that refugee youth who arrive to Canada dreaming of a bright future find themselves in such troubled circumstances as young adults?
1.2 Research Question and Approach

It seems to me these young men were experiencing extreme difficulties adjusting to their new life in Canada in part because of how they were understood and treated within Canadian society. In light of their troubled interactions with police, schools, and social service agencies, I wanted to investigate the role of policy in the production of stigma and precarity. Butler (2009b) explains that precarity is linked with the performance of norms (defined in terms of gender, age, race, class, and so forth) because those who do not conform to dominant norms are at greater risk of precarity. Building on these ideas, she argues further that it is on the basis of who counts as a human subject that performativity becomes linked with precarity (Butler 2009b). Butler argues that “performativity has everything to do with ‘who’ can become produced as a recognizable subject, a subject…whose life is worth sheltering and whose life, when lost, would be worthy of mourning” (Butler 2009a, xii-xiii). I wondered why there was no mourning for James’s lost potential. Was he not a human being? What does it mean to be a human subject?

In order to shed light on the production of precarity and to explore whether young people like James count as human subjects when they are racialized, criminalized, and marked as dependent, this dissertation focuses a critical lens on the criminal justice, education, immigration, and social welfare systems as sites of policy making that impact the lived experience of marginalization for the criminalized refugee youth who took part in this study. The overlap of criminal justice and immigration poses a vital but insufficiently explored area of knowledge. With few exceptions (Kwok 2009; Rossiter & Rossiter 2009b), previous academic inquiry into young refugees’ experiences has centered on education (Anisef et al 2010; Greenberg 2013; Gunderson et al 2012; Hersi 2005; Jacquet et al 2008), employment (Lauer et al 2012; Wilkinson 2008; Wilkenson et al 2013; Yan et al 2012), or other settlement issues (Dlamini et al 2010; Edge et al 2014; Ngo 2009; Shakya et al 2010; Wilson et al 2010; Yan et al 2009). Meanwhile, the study of the convergence of criminal justice and immigration systems focuses almost exclusively on asylum (Barnes 2009; Bosworth 2012; Miller 2005; Silverman 2014; Stumpf 2006). I address this lacuna in the literature by examining the intersection of these systems in the lives of criminalized refugee youth through a three pronged theoretical approach that includes a posthumanist non-
speciesist position (see Chapter 2), a theory of performativity (see Chapter 4), and institutional policy and processes (see Chapter 3).

Speciesism\(^1\) is the view that one’s own species is superior to all others. Speciesism is specified in anthropocentrism: the idea that humans are the superior species. Humanism is a broader term that describes a range of anthropocentric discourses grounded in the supposition that humans are separate from and superior to all other beings (i.e. to nature/animality), and therefore deserving of special respect; humanism is essentially speciesist and anthropocentric. Conversely, *posthumanism* is a philosophical and methodological approach that problematizes the humanist thesis of human uniqueness and superiority (Anderson 2006; Sundberg 2013).

From the humanist viewpoint, the category of non-human nature comprises objects, including non-human animals, plants, and inanimate objects. While humans are viewed as independent agential subjects, non-human entities are deemed to lack agency, spirit, culture, and the faculty of mind (thought) that define subjecthood. Further, while members of the human category embody intrinsic value, non-humans have value only insofar as they are useful for humans and therefore may be legitimately exploited, harmed or killed. In Butler’s (2009a) terms, their lost lives are not grievable. Another important feature of humanism concerns the definition of the universal human as uniquely rational and autonomous (i.e. exercising independent individual free will). However, since historically not all humans have enjoyed these “universal” qualities (e.g. women, children, persons with disability, criminals), they become “subhuman.” Subhumans (nominally human beings who are deemed to lack essential human traits) and non-human entities are seen to lack rationality, independence, and autonomy (they are instead subject to primitive “natural” forces such as instinct or passion) (Anderson 2006; Deckha 2010; Wynter 2003).

Wolfe (2003) suggests that the discourse of speciesism/humanism sits at the theoretical and methodological intersection of figure (connoting language and systems of representation) and institution (entailing specific approaches and material practices); to query the institution of speciesism/humanism is to pay attention to the inequitable material effects of anthropocentric discourse not only on non-human life forms but also on different groups

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\(^1\) Richard Ryder coined the term “speciesism” in 1970 to draw attention to the similarity between species prejudice and racism, sexism, classism, and other -isms that express prejudice based on morally irrelevant difference (Ryder 1971).
of humans. As Haraway indicates in the opening quote, the logics of race, sex, culture, and class interweave with species to create bodies that may or may not be legitimately subjected to violence and oppression. The White, able-bodied, heterosexual, male adult from a middle-class background epitomises the rational (human) norm, which in turn enables the production of a hierarchy of race, gender, class, age, and species in terms of supposed rational capacity, and a reading of the domination of the inferior by the superior as natural and even democratic. Liberal humanism denies rationality not only to animals, but also to women, children, people of non-European origin, non-human animals, criminals, savages, and others taken to be lacking in a basic trait of subjectivity and therefore adjudged less than human (Anderson 2006; Haraway 1989). Building on these ideas, the perception of Others (e.g. criminals, refugees, Muslims, children) as less rational or akin to animals (i.e. closer to nature) justifies harsh treatment because that is how humans treat non-human animals (Deckha 2010; Patterson 2002).

The youth who took part in this study exemplify the ways in which Others may be treated: they were contained in cages, denied access to human rights (Chapter 6), rendered disposable (Chapter 7), and frequently subjected to violence at the hands of law enforcement and correctional authorities (Chapter 8). The story of Hussein Jilaow, who arrived to Canada as a teenager and subsequently accumulated 13 criminal convictions, further illustrates the violence with which certain bodies may be treated. He was deported in 2007, aged 26, to Somalia, where he was killed soon after arrival (MacDonald 2007; McIntyre & Giroday 2007). Although the youth I spoke with had not been deported, I find that their lives are constructed as disposable in other ways, including through their removal from society by incarceration, loss of Permanent Residence status, homelessness, poverty, expulsion from school, illiteracy, and dependence on social assistance.

Scholarship has demonstrated that Western science, politics, theology, law, and philosophy are thoroughly beholden to the humanist worldview (Agamben 2004; Anderson 2006; Calarco 2008; Haraway 1989) (see Chapter 2). Deeply entrenched cultural narratives affect individual lives in part through institutional policies and roles that filter cultural frameworks (Haraway 1989). The notion of the ideal human as rational, White, middle-class, adult, innocent, peaceful, deserving, civilized, Christian, autonomous, and able-bodied has roots in colonialism, Orientalism, and slavery. In Canada, these qualities signify and contain
the figure of an ideal human citizen subject (Thobani 2007). Conversely, the youth I spoke with were of Black, West Asian or Arab origin, Muslim, young, poor, violent, culpable, and several had disabilities. Their experiences offer important evidence that has not previously been explored of the ways in which humanist categories and exclusions are reproduced through institutional policies. Given this, the two-part question my research sought to answer is: What can the lived experiences of criminalized refugee youth in Metro Vancouver reveal about the ways in which the human and sub/non-human figures are operationalized in Canadian institutions and policies and, correspondingly, what can an exploration of institutionalized humanism in criminal justice policy and discourse reveal about the experiences of criminalized refugee youth?

1.3 Key Arguments and Contributions

There are a number of directions from which to explore how a broad cultural narrative, humanism, is operationalized within institutional policies. By “operationalize” I mean both ‘to put into operation or use,’ and ‘to define a phenomenon that is not directly measurable, although its existence may be perceived through other phenomena.’ I adduce and define the operation of humanism in institutional policies that affect the young people I spoke with through the erasure of young people’s stories, in the denial of human rights, in their construal as disposable, and in their subjection to violence. In my analysis, I focus on dehumanization, the process of denying recognition of the human status of a being that is phenotypically human. The denial of rights, personal history, value, and protection dehumanizes the criminalized refugee youth who participated in this study by excluding them from the set of “bodies that matter” (Butler 1990) and denying them the rights and protections that accrue to humans. The concepts of objectification and animalization are closely related to dehumanization. Because only humans are subjects, while Others are objects, then to dehumanize is to objectify. Animalization is a specific form of dehumanization which Olsen defines as “the equation of the marginalized human with a negatively conceived of animal” (2014, 8). All of these processes affect the youth I spoke with. Dehumanization produces the sub- or nonhuman figure. The subhuman and the non-human are not identical; although the humanist separation of nature and culture is supposed to be definitive, the place of liminal humans is uncertain. In the epigraph, Fuss (1996) draws
attention to this conceptual elasticity. Deckha (2008) suggests that the subhuman is an “animalized human,” superior to animals but lacking key features of human subjectivity. In my analysis, this is the ambiguous category into which the youth I spoke with are subsumed as a policy outcome.

Critical scholars have shown how racialized people (Eze 1999; Mawani & Sealy 2010; Said 1979; Smith 2012; Thobani 2007), children (Alvi 2012; Cornell 2016; Kaplan 1996; Kincaid 1998; Naffine 2011; Naffine 2012), poor people (LaGrange et al 1999; Olsen 2014; Stoler 1995; Scott 2000), criminals and refugees (Canton 2010; Mawani & Sealy 2010; Olsen 2014; Thobani 2007), and persons with disability (Mitchell & Snyder 2003) are dehumanized through social, political, and legal processes that construct them as savage, irrational, excessively emotional and sexualized, and lacking in self-restraint. Consequently, my focus on criminalized refugee youth enables an examination of the experiences of a group of people who endure profound dehumanization on many levels (race, class, age, criminality, refugeehood, and so on) in diverse institutional contexts.

The conceptual mechanisms through which dehumanization is effected comprise the categories of intra-human identity and oppression, including race, class, gender, age, and ability. At a fundamental level, as I show in Chapter 2, these categories are expressions of being less than human and it is not possible to comprehend dehumanization or animalization without examining what it is that dehumanized beings are denied, namely, humanity (Anderson 2006; Deckha 2010; Salih 2007a). Therefore, posthumanist scholars such as Salih (2007a) in the quote above urge that analysing the categories of intra-human oppression requires consideration of species (also Deckha 2006; Anderson 2006). Building on these ideas, in “The Subhuman as a Cultural Agent of Violence” Deckha (2010) suggests that the human/subhuman dynamic sustains violence against certain categories of human who are put into the subhuman category by virtue of their race, class, age, gender, or other socially constructed difference (such as criminality). Specifically, she argues that the “animal” and the “subhuman” work as conceptual vehicles to justify violence or, as she puts it, the subhuman is a “violence producing category” (Deckha 2010). In other words, “subhuman” is a discursive classification that beings may be placed in to normalize and justify abuses and violations against them. Following from this, as a consequence of their raced, classed, aged, criminalized, and refugee identities, the youth I spoke with become aligned with an
animalized/subhuman figure that may be denied personhood and human rights, rendered disposable, and subjected to violence, including caging, beating, and chaining (methods commonly used on non-human animals). Through these means they are denied autonomy, independence, and value; stated otherwise, they are denied the attributes that characterize the human figure.

Understandings of who is human have historically excluded many individuals currently viewed as human today (Deckha 2008; Fuss 1996; Salih 2007a); for example, Canadian women have only recently achieved personhood. The concept of the human has proven flexible, expanding and contracting in different time periods to include or exclude certain beings within the purview of personhood and extending or retracting access to rights on that basis (Deckha 2008; Fuss 1996). Thus, Anderson argues that “humanity is not an essence, but a shifting mode of being” (2006, 2). However, rather than querying how bodily and behavioural markers become signifiers of humanist hierarchy and inferiority, most studies of dehumanization focus on the “offensive” comparison of disabled people, Muslims, the working classes, or other marginalized groups with animals as an instrumental means of propping up the White Western self (e.g. Mawani & Sealy 2010; Razack 2008; Wynter 2003). Posthumanist scholars caution that such accounts neglect the discursive force of the figure of the human as constructed in classical and Christian humanism against nature that inspires raced, classed, and gendered social arrangements, and also take for granted the degraded status of the “animal,” thereby leaving intact the anthropocentric foundations of humanist oppressions (e.g. Anderson 2006; Deckha 2006; Ko 2015a; Sundberg 2013).

This study addresses that gap by examining the lived experiences of criminalized refugee youth at the intersection of four institutional logics (criminal justice, immigration, education, and social welfare). Based on data gathered from diverse sources, including 55 interviews with youth and professionals who work with them, I show how the refugee youth who took part in this study are subjected to violence, denied human rights, see their personal histories erased, and are constituted as criminalized and disposable. I focus on these four aspects of dehumanization because they arose clearly from the interview data and also exemplify the ways in which other-than-human bodies are treated. Specifically, the youth I spoke with were put in cages, prohibited from obtaining citizenship, separated from mainstream institutions such as schools and the labour market, prevented from obtaining
citizenship, stigmatized, rendered homeless and dependent on income assistance, denied the ability to make decisions about their life, subjected to violence, their personal histories of refugeehood and trauma were rendered irrelevant, and they were permanently labeled as dangerous and undeserving.

I argue that these conditions are the result of policy choices made within the context of institutionalized “state humanism,” by which I mean institutional or structural humanism that arises out of political and social structures and institutions rather than solely as the result of individual intent. Policies, as textual and discursive mechanisms that allocate value and reify particular class, gender, and racial interests, are based on narratives that perform capitalism, patriarchy, anthropocentrism, and colonialism (Atwood and Lopez 2014; Prunty 1985; Weaver-Hightower 2008). Policy narratives connect the lived experiences of the young people I spoke with to the liberal humanist cultural frame that provides the focus of my theoretical argument. Specific policies that I examine include: the criminalization of schoolyard violence, school suspension/expulsion, rules that restrict access to Record Suspensions, the funding of settlement and youth services including counselling, the availability of rehabilitative programming, policies around the breaching of court orders, colour- and immigration status-blindness, discrimination on the basis of a criminal record, extensive use of segregation and force in prison, the disproportionate criminalization of poor and racialized people, the focus on offense over offender characteristics, and immigration rules around family separation, citizenship acquisition, deportation, and loss of PR status. I focus on these policies in order to shed light on the operationalization of humanism in material-discursive practices that affect the young criminalised refugees I spoke with. The construction of policy problems involves judgments about what is problematic and what is normal, what constitutes knowledge, who can speak, and who is responsible (Colebatch 2012; Rose & Miller 1992; Zittoun & Demengeot 2009). The voices of the marginalized, such as the criminalized refugee youth who took part in this study, are rarely heard in policy discussions. The silencing of young people and the rejection of their personal histories is dehumanizing because this is the way that nonhumans are treated (i.e. as having no voice or relevant knowledge).

I bring together ideas about humanity and animality, institutional policy, performativity, and precarity through a focus on the roles played by the figures of the
“human” and the “animal” in liberal humanism to suggest that policy discourse and practice perform particular figurations of the human through their effects in the lives of the criminalized refugee youth who participated in this study. Specifically, I argue that policies related to criminal justice, immigration, education, and social welfare regulate inclusion in the human community by specifying who may be subject to violence and denied human rights, and by determining whose lives, bodies, and opinions matter. The humanist separation of humanity (culture) from animality (nature) is operationalized in policies based on persistent narratives with roots in slavery, colonialism, and Orientalism that construct the criminalized Black/Muslim refugee youth I spoke with as closer to nature and perform the human and nonhuman figures that sustain dehumanizing discourses and practices. In short, institutional policies and practices both reinforce and are nourished by anthropocentric humanist discourses about humanity and animality that produce the oppression and marginalization my research participants experience.

When I say that policies perform the human and sub- or non-human figures, I mean they enact those figures as an effect of the policies in question. Performativity means that statements and representations produce rather than merely reflect reality. To suggest that criminal justice policy and processing is performative is to assert that criminal justice models and tools are not, as conventionally understood, inert reflections of an external world. Rather, these tools and models actively bring the world into being by producing racialized, gendered, classed, and animalized identities within the dominant cultural discourse. In part, this occurs through the disproportionate criminalization of poor and racialized people (see Chapter 3). Thus, criminological categories are discursive products of the social structures that produce the criminal behaviours and individuals to which they refer, while, at the same time, the categories influence how state agents (i.e. police, corrections) interpret behaviour (Balluci 2012, 205). The notion of criminals and racialized Others as bestial, savage, irrational, and lacking in self-control promotes their containment in cages and the use of violence against them; in turn, caging and violence are dehumanizing because they entail a rejection of the right to be treated as a human (i.e. to be treated as a white, middle-class, able-bodied, male). In other words, the criminal as beast, and the figure of the irrational and violent, young, jobless, Black male, are products of the criminal justice system rather than entities that exist prior to or outside of it. As Butler (1990) insists,
There is no subject who is ‘free’ to stand outside [social] norms or to negotiate them at a distance; on the contrary, the subject is retroactively produced by these norms in their repetition, precisely as their effect…Performativity cannot be understood outside of a process of iterability, a regularized and constrained repetition of norms. And this repetition is not performed by a subject; this repetition is what enables a subject (95).

The institutional iteration of dehumanizing criminal justice and related policies reproduce the criminalized refugee youth I spoke with in the terms of a subhuman/animalized figure that may be denied human rights and subjected to violence and exploitation. By such means, the division between humans and Others is continually redrawn—iteratively performed—within and by the bureaucratic systems that frame the experiences of the young refugees who took part in this study.

Arguing that the institutional policies and practices I describe dehumanize the criminalized refugee youth I spoke with is likely uncontroversial. What differentiates this dissertation from most work on racism, immigrant settlement or criminal justice is the extension of my analysis beyond the functional construction of self and Other to a deeper investigation of dehumanization in terms of the profound role played by the figure of the human in policy discourse and outcomes. The solutions that conventional analyses of dehumanization propose tend to center around recognizing the common humanity of denigrated groups and extending to them the “universal” human rights that members of the dominant classes enjoy (e.g. Wynter 2003; Razack 2008). However, Deckha (2010) suggests an expanded humanism that “really” applies to all human beings perpetuates the subhuman as a violence producing category; therefore, she insists on the importance of undermining the human/nature binary itself. Following from this, my aspiration is not for excluded people to gain admittance to the humanist category of “Man” (as a rational, autonomous individual unmarked by race, class or gender) but to put the category itself into question; rather than arguing for an extension of liberal humanism that would recognize the criminalized youth I spoke with as human, my aim is a transformation of humanism.

Personal Statement

My views on the processes I describe are shaped by my personal commitment to non-anthropocentrism. More specifically, the youth who are the subjects of my analysis experience intense forms of exclusion and marginalization and my desire is to undermine that
dynamic by exposing the processes that create and sustain marginalization. I do this by revealing the ways in which the criminalized refugee youth I spoke with are dehumanized through the effects of institutional policies and I trace these processes to a particular figuration of the human to which they cannot conform. The question for me is not whether criminalized refugee youth “actually” engaged in behaviour that violates the Criminal Code, or even why they may have done so; indeed, all except one admitted as much and explained the circumstances. The focus of my interest and analysis is on criminalization and dehumanization, on whose actions are criminalized, and the effects of criminalization on lived experience.

My aim is not to design an ideal society but to uncover what lies behind existing processes in order to analyse the theoretical foundations of material practices that enforce oppression. Power is socially constructed and exceptionally malleable, and therefore justifiable by any number of logical devices. I cannot predict what forms social relations might take if people did not consider themselves superior to and separate from all other beings as in the Western tradition, but posing such questions is nevertheless a valuable exercise. The puzzled looks one encounters when opening up the question of the human reveal how deeply most scholars remain speciesist and humanist (Wolfe 2003). An interrogation of taken-for-granted discourses is needed at a historical point in which violence and oppression maybe used with impunity against bodies deemed less-than- or non-human. Focusing on species also offers a new way to think about the ways in which power and identity are inscribed in the lives of refugees and criminalized persons in Canada and therefore this dissertation makes a unique contribution to scholarship on immigration, criminal justice, and posthumanism. I want to believe that a more just society is possible: one where race, gender, class, age, ability, and species do not separate populations such that some may be legitimately subjected to violence, poverty, torture, maiming, fear, and death while others enjoy wealth, safety, privilege, and health. Admittedly, it is difficult to imagine that world, but that does not mean we must accept current arrangements.

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2 Drawing on Stone’s earlier work, Naffine (2012) suggests discarding the notion of a natural (“human”) bearer of rights and considering the sort of society we want, then working backwards from there to imagine a better world, which could include rights for non-human animals, rivers, and trees.
1.4 Chapter Outline

Two contextual chapters follow this introduction. The first provides the conceptual scaffolding for the analysis that follows by reviewing the literature on liberal humanist species-thinking. This is followed in Chapter 3 with contextual background pertaining to immigration and criminal justice processes and patterns. Chapter 4 is a methodological section that outlines how I carried out the research, who I spoke with and what I hoped to learn, and the limitations of the study. Chapters 5-8 present my research findings. Organised around the themes of the value of personal histories, access to human rights, disposability, and violence, these chapters describe and analyse the institutional policies and processes that function to remove the youth I spoke with from the human ontology.

Chapter 5 shows how the category of subhuman prevents recognition of “personal histories” that define human being. This concern takes on greater significance given that the walls of the prison create a closed environment such that those on the outside rarely hear the stories of those inside. I focus on three key means by which the stories of the young people I spoke with are erased and marginalized. First I examine the rejection of their refugee status as a meaningful consideration in institutional processes. Dismissing refugee status also implies ignoring the trauma that is an integral aspect of my research participants’ refugee experience; these processes are related to the criminal justice system’s focus on offence over offender characteristics, a practice which promotes criminalization and punishment rather than understanding and support. Next, I turn to the lack of opportunities for young refugees to talk about or work through their experiences and the accompanying unrealistic expectations of youth in social service programs. Finally, I look at what happens when authoritative adults reject young people’s explanations for their behaviour. I argue that these processes objectify the young people I spoke with as the less-than-human “dangerous Muslim/Black male” or the “criminal alien.” These findings raise the question of whose knowledge matters and by what means some knowledges are disqualified from consideration. In the liberal humanist framework, only humans count; Others become aligned with the peripheral subhuman figure. The negation of young people’s stories is one way in which criminal justice policies operationalize the human/non-human boundary through the dehumanization of the youth I spoke with.
The erasure of personal narratives parallels the denial of human rights. This is the focus of Chapter 6, which reveals some of the ways in which the “human rights” (as defined in national and international legislation) of the criminalized youth I spoke with are violated. Within the boundaries of legal personhood, the term “human rights” signifies that all humans are entitled to basic assurances based on their common humanity; embodying the species identity “human” provides the rationale for receiving respect and rights (Deckha 2006). However, the organizing logic of human rights is essentially exclusionary; despite its universal pretentions, the liberal human rights project hangs on the figure of the classic liberal actor—an image of a rational, individualized, innocent, and autonomous “human” self—that relies on Othering and rejecting those who do not conform to the ideal (Deckha 2006). I focus on the denial of the following rights: to be aware of and able to access one’s rights; to trial in a reasonable time; to interpretation in criminal justice processes; to legal counsel; to non-discrimination on the basis of a criminal record; to not be racially profiled; to live with one’s family; and to housing. The key point is that denying human rights is a form of dehumanization that enforces species division. Human rights do not apply to non-humans because the category of “animal” (defined as property) prohibits the extension of personhood; based on the non-human status of the animal bodies to which they are likened, the criminalized refugee youth who took part in this study may legitimately be denied such rights. As long as the organizing logic of human rights discourse is exclusionary, liberalism will encourage ranking among humans. This is why analysis needs to go beyond the simple extension of human rights to scrutinize the institution of personhood.

Chapter 7 picks up the thread to argue that, partly as an outcome of the denial of human rights and the negation of their personal histories, the criminalized refugee youth I spoke with are produced as disposable: disposability emerges as the cumulative outcome of their intersecting race, class, ability, age, religion, refugee, and criminal identities that combine to position them at the outer limits of humanity. I show how this occurs through: the expulsion of the criminalized refugee youth I spoke with from school and their rejection by the labour market which create the structural conditions for poverty, dependence on welfare and vulnerability to homelessness; the “revolving door” of the criminal justice system; the removal of permanent residence status and deportability; and the overall disinvestment in programs for young people. Through such means, the criminal justice system defined my
research participants as dangerous, and then stigmatised and excluded them. The homelessness, incarceration, illiteracy, and poverty experienced by the youth I spoke with are dehumanizing because the ideal human is free, independent, middle-class, and educated. Conversely, refugee delinquents are removable and dispensable because, according to humanist logic, the category of subhuman implies disposability. Criminals, refugees, people with disabilities, and racialized minorities may be discounted precisely because of the widespread societal disregard for the non-human beings with whom they are associated. I argue that institutional policies that create disposability perform the separation of my research participants from the deserving category of human, and reinforce the contempt for animalized bodies that sustains humanism.

Next, Chapter 8 applies Deckha’s (2010) work on the subhuman as a violence-producing category to the experiences of my young research participants to show the ways in which criminalized refugee youth are dehumanized through their subjection to physical and psychological violence from police, correctional staff, and family members. As their stories demonstrate, incarceration is a form of violence and prison is saturated with violence from intake to release. Frequent stops and searches by police are also violent events. These overlapping violent acts provoke a violent response in youth, creating a cycle of violent action/reaction that includes violence among peers. To treat with violence is to brutalize, to bestialize, to animalize. To brutalize is to turn an entity into a brute, in other words into a non-human figure (Seshadri 2012). Thus, the violence experienced by the young people I spoke with serves to dehumanize them. Violence is an expression of the carceral system and of the “politics of caging” (Morin 2015) that ultimately begets more violence, yet the debate over punishment is frequently posed in terms of necessity, with violence against Others seen as necessary for the civilized state to preserve itself and its citizens (Razack 2008). The construction of criminals as “beasts” implies that they are instinct-driven, lacking in rationality, uncivilized, dangerous, and inherently vicious (Olsen 2014). On the same logic, the criminalized youth I spoke with are construed as requiring and deserving of violent treatment. Simultaneously, violence is also dehumanizing due to its function in separating certain individuals from the rational, peaceful, innocent, and civilized ideal human perceived as deserving of protection. However, instead of countering dehumanization with humanization, we need to minimize the human/non-human boundary because as long as it
remains in place, it will be available for use by some humans against other groups of humans who, by virtue of being categorized as sub/non-human, become vulnerable to exploitation and violence (Deckha 2010; Patterson 2002).

Finally, Chapter 9 summarizes my findings and analysis and reviews the study’s broader theoretical and practical implications. I conclude this introduction with a plea from Patience, a settlement worker who expressed to me her feelings about the study and what could be achieved by sharing young people’s stories with a wider audience, “This project that you are doing is a big thing because there is a huge pain in the hearts of these youth—it will really help to understand what the youth are going through.”
Part 1: Context and Approach

Chapter 2. Liberal Humanism

“One thing in any case is certain: man is neither the oldest nor the most constant problem that has been posed for human knowledge. Taking a relatively short chronological sample within a restricted geographical area—European culture since the sixteenth century—one can be certain that man is a recent invention within it...And that appearance...was the effect of a change in the fundamental arrangements of knowledge...If those arrangements were to disappear as they appeared...one can certainly wager that man would be erased” (Foucault 1970).

“It is not simply that liberalism creates Others who then get plugged into a discourse of subhumanity and superhumanity. Rather, the humanist foundations of liberalism ensure that the liberal paradigmatic actor must always differentiate itself from the non-human, for the ‘good’ life articulated within liberal theories is a vision of human life that depends on the non-human for its claims to unique value. The sub-human is critical to the foundations of humanist and liberal theories, making their recuperation an implausible task” (Deckha 2010, 45).

“Each form of oppression is part of a single complex, interrelated, self-perpetuating system. The whole thing rests on a world view that says we must constantly strive to be better than someone else. Competition assumes that we are separate beings—separate from each other, from other species, from the earth. If we believe we are separate then we are able to believe we can hurt another being and not suffer ourselves...As long as we who are fighting oppression continue to play the game of competition with one another, all forms of oppression will continue to exist. No one oppression can be ended without all ending” (Bishop 2002, 19).

2.1 Introduction

This chapter sets out the conceptual context that frames the analytical and empirical findings put forth in Chapters 5-8. Here I describe liberal humanism, the broad cultural narrative I argue underlies the experiences of my research participants through the performance of a particular figuration of the human as rational, atomized, and autonomous. Below, I show that, although this figure is posited as universal, it actually corresponds to the white, male, middle-class, able-bodied, adult. The non-conformity of the youth who took part in this study with these dominant norms puts them at risk of precarity, which creates vulnerability to criminalization, marginalization, and further dehumanization. In these ways,
criminalization produces the dehumanized figure that the criminal justice system purportedly describes, namely, the dangerous young Black male requiring violence and containment. I elaborate on these processes in subsequent chapters. Here, I focus on the central features of the human figure that underpins the dehumanization of the young criminalized refugees I spoke with.

After outlining the relevant features of liberal humanism, I differentiate it from the posthumanist standpoint that I take in my analysis. I then use a posthumanist perspective to draw out some of the links between liberal humanism, law, personhood, and criminal justice. Next I provide an overview of the historical development of the human figure as imagined in humanist discourse. I reveal the shifting and undefined nature of the human/non-human binary in order to show how humanism came to be the dominant framework in Western society, to underscore the fragility of the human figure defined as separate from and superior to nature, and to ground historically the performative relation of policy with the human/nature binary. These historical connections are important because performances are historically embedded as “citational chains” (Pratt 2009, 527) that connect past and present. Further, if we are to move forward into a posthumanist world, we have to understand where we have come from. Finally, I connect humanism’s historical trajectory to the categories of humanist identity to highlight the intimate connections among species, race, sex, age, ability, refugeehood, and class that shape the experiences of my young research participants.

2.2 Humanism and Posthumanism

Humanism is a broad term that describes a range of anthropocentric discourses grounded in the supposition that humans are separate from and superior to nature/animality. Anthropocentrism refers to the notion that humans are the superior species; it is a form of speciesism (the belief that one’s own species is superior to all others). In the humanist

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3 The focus of my analysis is Western philosophical traditions. Other cultures may conceive the world in different terms than those proposed by Western humanism’s separation of humans from nature and understandings of subjectivity that follow from that separation. For example, despite important differences among Indigenous belief systems, a tradition shared by native peoples in the Americas involves the idea that humans, animals, plants, and even “inanimate” objects possess a common essence that includes agency and subjectivity; consequently, relations between humans and non-human nature are social relations. In this view, cultivated plants may be seen as relatives of the women who tend them, hunters may approach game animals as affines, and shamans may relate to animals and plants as associates or enemies (Viveiros De Castro 2004).
perspective, humans are independent *subjects* uniquely endowed with agency, spirit, culture, and thought, qualities which non-human *objects* (inanimate objects, plants, and non-human animals) are deemed to lack. While humans are perceived to have intrinsic value, non-human beings may be legitimately exploited, harmed or put to death. Another key feature of humanism concerns the definition of the universal human as rational, independent, and autonomous. However, not all humans are deemed to possess these “universal” qualities. For example, women, children, persons with disability, criminals, and others who experience periods of dependence, or who are judged to be deficient in rationality, find themselves submerged in the category of the sub- or non-human. The subhuman category includes beings that are nominally human, but lack or are seen to lack one or more of the essential features of humanity, including the refugee youth who took part in this study.

Posthumanist legal scholar Maneesha Deckha (2008) captures these ideas in a typology of humans and Others derived from Wolfe’s earlier scholarship on humanist species-thinking. Although the fundamental humanist division is between human and non-human, Deckha’s matrix reveals some nuances because the subhuman figure blurs distinctions between humans and non-humans. In her typology, “animalized animals” are those that that we kill, eat, enslave, torture, and mutilate. Above them sit “humanized animals” which share certain “human” features or with whom some humans form close bonds. Next, “animalized humans” are superior to all animals but different from full humans. Criminals, refugees, persons with disabilities, Africans, and Muslims are examples of animalized humans. The criminalized refugee youth I spoke with reside in this ambiguous subhuman category. Although they fall within the human range, their treatment is influenced by their proximity to animals. As the historiography below indicates, it has not always been clear whether subhumans mark the end of one category (animality) or the beginning of the other (humanity). Finally, “humanized humans” are exemplified by White, middle-class, able-bodied men (Deckha 2008). The human and animal figures signify opposing moral statuses in that the closer one is to the White male human, the more one matters (Ko 2015b; Salih 2007a). Although non-human animals (and plants) are disproportionately negatively affected, we all have a stake in the institution of humanism/anthropocentrism/speciesism because it also impacts relations among humans.
Broadly speaking, *posthumanism* is a non-anthropocentric philosophical and methodological approach that problematizes the thesis of human uniqueness and superiority and questions the strict separation of the human (culture) from the animal (nature). Simonsen (2013) distinguishes among three strands of posthumanist work: (1) posthumanism as deconstructive responsibility that focuses on the figure of the human and how it is established as an identity differentiated from other categories of being; (2) posthumanism as ontology, including cyborg ontology, and different ontologies dealing with the making of humans and non-humans as relational effects of anonymous forces; and (3) posthumanism as non-anthropocentrism that claims the social world is not only human and admits non-human actors into the social/political realm. More generally, Sundberg (2011) uses the term posthumanist to refer to a diverse body of work that seeks to move beyond the nature-culture divide through a relational approach that does not treat the human as an ontologically given or privileged actor, but instead views human and non-human as mutually constituted through social relations. My use of posthumanism corresponds to the first description provided by Simonsen, and also fits easily within Sundberg’s definition.

I apply a posthumanist lens to the experiences of the youth I spoke with in order to understand the effects of particular policies on their lives. I argue that that the overall effect of these policies is to *dehumanize* the criminalized refugee youth I spoke with, by which I mean they are denied the attributes of being a human defined in humanist terms as rational, independent, autonomous, and civilized. *Animalization* is a similar process that equates marginalized humans with the negative image of the animal (Olsen 2014). Dehumanization and animalization produce the subhuman (“animalized human”) and non-human figures as the Other of the ideal human.4

Later in this chapter I show how a particular human figure became universalized as an outcome of a historical process characterized by profound changeability in the human and animal categories. As a consequence of this instability, Salih (2007a), following Agamben, suggests that *homo sapien* is a device (“machine”) for producing recognition of the human; in other words, the problem is not determining what a human is in objective terms, but

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4 The categories lack absolute analytical precision partly due to the newness of the field of study and partially as a result of the inevitable messiness that results when interrogating problematic binary constructions such as nature/culture that have been so profoundly influential in every aspect of Western society. This dissertation represents a preliminary attempt to explore these complex discursive categories in an original empirical context.
understanding who is recognized subjectively as a human being. The machine does not uncover a uniquely human trait that achieves a neat break with animality because no such trait exists (Salih 2007a). The discursive concept of “animality” homogenizes radically different forms of life; the human figure defined in opposition to diverse animality has proved extremely plastic, expanding and contracting in different time periods to include or exclude certain beings within the purview of personhood and extending or retracting access to rights on that basis (Deckha 2008). Deciding what constitutes the human and the animal is not a neutral scientific or ontological matter; the stakes are political and ethical because the division opens up the possibility for the exploitation of all those defined as not fully human, including many humans and all non-humans (Calarco 2008).

The modern anthropological machine animalizes certain humans by characterizing Others as having animalistic traits despite being human-like; thus, the human is not a biologically fixed organism but a “field of dialectical tensions” (Agamben 2004, 12). Accordingly, my research does not ask whether the criminalized refugee youth I spoke with are human, but whether and how they are recognized as such, or not. Agamben (2004) suggests that the process of distinguishing between human and non-human animals is constitutive of humanity; this study is situated within this framework in that I argue that the policies which function to place the youth who participated in this study into the category of “animalized human” perform the human and sub/non-human figures. Institutional practices and policies operationalize the humanist figure of Man⁵ and demarcate the human from the non-human by placing the criminalized refugee youth I spoke with into the latter category.

The ideal human and his Others are ranked on a scale that simultaneously tracks a colour and species descent because the White, able-bodied, male adult from a middle class background epitomises the rational (human) norm. With respect to race, Ko (2015a) unequivocally states, “‘White’ is not just the superior race; it is also the superior mode of being. Residing at the top of the racial hierarchy is the White human, where species and race coincide to create the master being. Resting at the bottom as the abject opposite of the human, of Whiteness, is the (necessarily) nebulous notion of ‘the animal.’” This construction in turn enables the production of a hierarchy of race, gender, class, age, and species in terms

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⁵ “Man represents the western configuration of the human as synonymous with the heteromasculine, White, propertied, and liberal subject that renders all those who do not conform to these characteristics as exploitable nonhumans, literal legal no-bodies” (Weheliye 2014, 135).
of supposed rational capacity. Liberal humanism denies rationality not only to animals, but
also to women, children, people of non-European origin, non-human animals, criminals,
savages, and others taken to be lacking in a basic trait of subjectivity and therefore
considered less than human (Anderson 2006; Haraway 1989). Grear (2015) points out that
while rationality is conceptualized in disembodied terms, to be recognized as rational has
historically required the identification of maleness; the disembodiment of reason therefore
rests upon the privileging of male physiology. This process is also racialized: Black, Muslim,
and Indigenous men historically have not been recognized as the paradigmatic rational
knower (Grear 2015). The attachment of rationality to White male bodies is masked by the
liberal discourse of objectivity, neutrality, formal equality and universalism. The presumed
disembodiment of rationality and its associated subject/object relations assume a set of
“feminized” Others, including the criminalized refugee youth who took part in this study,
that serve as objects to the knowing masculine gaze of Man. These Others signify the
irrational embodiment attendant on non-rational, objectifiable nature and animality (Deckha
2010; Grear 2015).

Building on these ideas, the perception of Others (e.g. criminals, refugees, Muslims)
as less rational or akin to animals (i.e. closer to nature) justifies their harsh treatment because
that is how humans treat non-human animals. Speciesism has been fundamental to the
development of Western subjectivity, which relies on the sacrifice of animals and animal-like
beings to make possible a “symbolic economy” that includes the “non-criminal putting to
death” of other humans by marking them as animal (Wolfe 2003, 6). Because the discourse
of speciesism is so firmly institutionalized, while the concept of the human is so malleable,
the discourse can be used to mark any social Other, as I argue it marks the criminalized
refugee youth I spoke with. Thus, the logics of race, sex, culture, class, and species
interweave to create the basis for legitimate violence and oppression. For example, Kochi
(2009) shows how the legal mechanisms for determining what constitutes legitimate violence
rely on judgements about the value of different life forms, which is in turn an extension of
the valuation of the human above the non-human. He argues that divisions which follow
from the human/animal life value distinction include Hellenes and barbarians, Europeans and
Orientals, Whites and Blacks, civilized and uncivilized, Nazis and Jews, Israelis and Arabs,
and colonizers and the colonized (Kochi 2009). To his list, I add criminal and innocent, and refugee and citizen.

Patterson (2002) takes an analogous approach in *Eternal Treblinka: Our Treatment of Animals and the Holocaust*, in which he demonstrates that the roots of the Nazi genocide and eugenics programs lay in the enslavement, selective breeding, and slaughter (especially in its industrialized forms) of non-human animals. He suggests, “Our victimization of animals has served as the model and foundation for our victimization of each other…First, humans exploit and slaughter animals; then, they treat other people like animals and do the same to them” (109). For example, in slave societies the same methods used to control non-human animals (e.g. castration, branding, whipping, chaining, ear cropping, hobbling) were used to control enslaved humans (Patterson 2002). Similarly, in the contemporary criminal justice system caging, chaining, beating, electrocution,\(^6\) and limiting diet, all practices used on animals, are commonly used on human prisoners. At the same time, the supposed divide between “humans” and “animals” provides a standard by which to judge certain people; if the essential human is defined by characteristics such as reason, language, manners, religion, and culture then it follows that any entity that is deemed to lack those qualities (such as my young research participants) is “subhuman.” Thus, hierarchical thinking built on the enslavement/domestication of animals justifies and encourages the oppression of people regarded as “animal like” (Patterson 2002). In these contexts, posthumanist scholars argue that the inferior status accorded non-human life naturalizes and provides the foundation for exclusionary beliefs and practices concerning sex, race, age, class, and ability (Sundberg 2013a). By virtue of their raced, classed, gendered, aged, ableised, criminalized, and refugee identities, the youth I spoke with may be denied personhood, autonomy, and human rights, rendered disposable, and subjected to violence.

Deckha (2010) illustrates these ideas in “The Subhuman as a Cultural Agent of Violence,” in which she suggests that the ideal, rational, autonomous actor requires an Other against which to define himself. She argues that the “animal” and the “subhuman” work as conceptual vehicles to justify violence; the animalized (sub)human is a “violence producing category” into which entities may be placed in order to legitimate the use of violence against them. Deckha’s analysis suggests that the discursive removal of certain groups from the

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\(^6\) i.e. by Taser
human ontology based on claims that they are irrational, hold barbaric values, have inferior belief systems, behave like animals, and so on, justifies violence perpetrated against these groups which would not otherwise be acceptable (Deckha 2010). For example, Patterson (2002) shows that by describing Jewish people as “vermin” and “pigs” the Nazi regime convinced the German public of the necessity of their extermination. Refugees are also contained in “concentration” camps and similarly dehumanized as parasites, scum, floods, and waves (Canton 2010; Cohen & Deng 1998). According to Patterson (2002), the Nazi’s use of animal terms to dehumanize those in the camps combined with the degraded conditions in which they were kept to create a positive feedback loop that made treating the prisoners like animals even easier, since they supposedly looked and smelled like animals. I identify a similar cycle in my analysis: due to persistent narratives that construct Africans, Muslims, children, people with disabilities, refugees, and criminals as subhuman, my young research participants experience precarity and criminalization, which produces further marginalization, desperation, violence, and re-criminalization. These conditions in turn create the violent and angry young dark-skinned men that the criminal justice system claims to manage.

Deckha (2010) argues that in contemporary times, Others are those whose perceived lifestyles threaten the liberal order, such as the criminal, the Muslim, and the refugee—in other words, the very categories at play in my analysis. She focuses on the war on terror, forced labour, and the laws of war to argue that camps such as the one at Guantanamo Bay are not merely techniques of ensuring security, but a way of arranging who is and who is not part of the human community (Deckha 2010). In a similar manner, Razack suggests that camps such as those in Iraq and Afghanistan, which tend to contain racialized individuals construed as criminal, terrorist or migrant threats, represent an “ominous, permanent arrangement of who is and who is not a part of the human community” (2008, 176). I apply these ideas to the Canadian criminal justice system (and related bureaucracies in education, welfare, and immigration) to reveal the ways in which the intersections of particular institutional policies and practices dehumanize the criminalized refugee youth I spoke with.

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7 To illustrate these points, Razack quotes an interview in an American newspaper in which a resident stated, “To the country boys here, if you’re a different nationality, a different race, you’re sub-human. That’s the way that girls like Lynndie England [the American soldier pictured leading a naked Iraqi detainee with a dog collar and leash] are raised. Tormenting Iraqis, in her mind, would be no different from shooting a turkey. Every season here you’re hunting something. Over there they’re hunting Iraqis” (Razack 2008, 77).
while also reinscribing an imagined species division. While Razack’s antiracist work is conducted within the limits of humanism, I follow Deckha (2006; 2008; 2010) to analyse the plasticity of the border between the human and the animal that provides the ground and justification for racial discrimination “as an instrument of power that engenders the abject experience of animalization” (Seshadri 2012, 12).

Central to practices of dehumanization and animalization is the valuation of reason over emotion, culture over nature, and man over woman (Deckha 2006). One of the most ingrained legacies of Enlightenment thought is hierarchical dualistic thinking. Examples of foundational binaries that continue to shape conceptions of humans and Others include male/female, rational/irrational, human/animal, nature/culture, adult/child, mind/body, mental/manual, and civilized/barbaric. In dualistic thinking, the rational, the cultural, and the masculine prevail over the morally and mentally compromised, emotional, instinctual, and feminized Other, with propertied, White, European males positioned as the ideal model of being. Within each contrasting set of dualistic concepts, virtually everything on the superior side represents forms of reason (mind); correspondingly, almost everything on the underside signifies forms of nature (matter) (Plumwood 1993). In other words, ejection from the master category of reason conceptually links different categories of oppression and informs unequal contemporary social arrangements by ratifying a specific framing of the human, along with the violent repercussions for those considered to exist outside that category and marked as nature (Plumwood 1994; Sundberg 2011), including the criminalized refugee youth who participated in this study. The concern is not only the ways in which either/or binarisms conceal diversity but that the terms are arranged hierarchically and have ethical consequences for the lived experience of oppression and privilege, as my analysis shows.

Scholars of coloniality often use the concept of dehumanization to explain the treatment of racialized minorities, criminals, aliens, persons with disabilities, and other marginalized figures. The assumption tends to be that any comparison with non-human animals is offensive because of the negative status of the animal. However, that negative status, as well as the superior status of the human, is rarely questioned. At the same time, the existence of a White self defined in relation to a denigrated, darker Other is assumed rather than problematized (Anderson 2006). Analyses of dehumanization also tend to center on instrumentality with respect to the preservation of White privilege and identity. For example,
Gilmore (2007) argues that dehumanization is a necessary factor in the acceptance that millions of people should spend part of their lives in cages. In her insightful analysis, racism is the means through which dehumanization is normalized while, at the same time, dehumanization produces racial categories. However, by failing to explicate the mechanisms that make dehumanizing discourses so potent, such accounts neglect how a particular human figure provides the foundation for racism, sexism, and classism, which are therefore under-explored. Moreover, most critiques assume a fixed human figure into which excluded groups should be enfolded; the problem is that the figure is flexibly defined, so there will always be an opportunity to exclude certain groups, hence the necessity of interrogating the figure itself. While cultural critics have revealed the social constructedness of sexual, gender, and racial difference, they have been uncritical or supportive of the primacy of the human subject inherent in socio-biological narratives (e.g. Weheliye 2014; Wynter 2003). In other words, most identity-based political movements are anthropocentric.

In these contexts, some scholars argue that the critical target of progressive movements should be anthropocentrism (Calarco 2008; Deckha 2010; Sundberg 2013; Wolfe 2003). Overcoming anthropocentrism does not entail the rejection of specific location and the achievement of a race/class/gender/species-blind view from nowhere (Plumwood 1996). Acknowledging coherence among systems of domination also does not imply that each form of oppression must sink its identity into a massive undifferentiated movement (Plumwood 1994). In other words, the struggle to disable anthropocentrism is not to identify the “ground zero” of discrimination, but to ask that each form develop sensitivity to others at the level of practice and theory through an assertion of particular locations or identities and their explicit acceptance as important. Following from this, liberal theory cannot produce substantive equality because it dismisses the particularities of situated, living, corporeal beings that are fundamental to the achievement of justice (Greer 2015; Haraway 1988). In my analysis, these particularities include refugee status, culture, age, recent arrival to Canada, and other aspects of the personal histories of the youth I spoke with (see Chapter 5).

Deckha (2008) acknowledges the resistance among some scholars and activists to embrace non-anthropocentrism based on the fear that including non-human beings in social justice movements will dilute the hard-won rights of minorities. However, ignoring the human/culture division that lies at the heart of racism, sexism, classism, ageism, and ableism
paves the way for future marginalization because it leaves the human/non-human binary in place and reproduces the “institution of speciesism” (Wolfe 2003, 2). Further, as Bishop (2002) cautions in the opening quote, viewing the struggle for social justice as a competition is unhelpful due to the interwoven nature of forms of oppression. Writing about the “race-culture-gender-species system,” Deckha (2006) argues that much of the institutional racism, sexism, homophobia, ageism, and so forth that intersectionality theories address stems from imperial discourses, including social Darwinist views about the value of different cultures, races, and human beings. Understanding the ways in which species and notions of animality shape conceptions of culture, gender, and race underscores the need for intersectionality theory to incorporate species difference (Anderson 2006; Deckha 2006; Ko 2015b; Salih 2007a).

Instead, dehumanizing discourses tend to provoke the counter-claim that “humanness” should be extended to all condemned peoples (e.g. Razack 2008; Scott 2000; Weheliye 2014; Wynter 2003). However, Ko and Ko (2015) argue that humanization is not simply the act of asserting that one is homo sapien, but the assertion of one’s resemblance to “humans,” in other words, to White people because the human is a conceptual way to mark European Whiteness as the ideal way of being homo sapien. The implication is that Others do not behave or look or believe properly, where “properly” is defined in Eurocentric terms. Stated otherwise, like my young research participants, they deviate from standardized forms of middle-class Whiteness, including adherence to a respectable religion and appropriate ways of carrying oneself. Other forms of being become exotic, primitive, irrational or animalistic. Following from this, attempts to humanize excluded Others by claiming that they “are human too” upholds the supposed superiority of Whiteness and will not overcome animalization because most people will not conform to what White Western middle-class males deem the proper way to live, look, behave, believe, know, celebrate and so on.8

Further, arguing that certain beings should not be excluded from the universal maintains the universal while expanding the dominating class (Deckha 2008; Plumwood 1994). Conversely, if the universals (e.g. White, man, human, citizen) are broken down, then so is

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8 This does not mean that all White men are deliberately and consciously animalizing others in order to prop up their own privilege or entrenched a definition of the human that advantages themselves. The point is that there are raced, classed, and gendered institutionalized systems in place that privilege White skin and patterns of behaviour and disadvantage others.
everything that is compared to them in a negative way (e.g. Black, woman, animal, alien). Therefore, I do not argue that the young refugees I spoke with “are human” and should be respected on that basis, but instead call for a re-visioning of the human figure and the human/non-human binary it is based on.

2.3 Law, Personhood, and Criminalization

The above ideas can aid in understanding processes of criminalization, the role of which is to label and target the activities of groups that authorities deem to require control (Chan & Mirchandani 2002, 15). The terrain of criminal identification, despite its neutral scientific pretensions, is a fraught ethical and political arena in which justice is defined primarily as the systematic identification of crime and criminals. Pavlich (2006) suggests that the idea of a savage criminal type with unrestrained passions reflects the historical image of the Other against which Man’s ethically infused identity is defined. As Deckha (2010) suggests in the epigraph, the paradigmatic liberal actor, defined as the ideal human (rational, civilized, self-contained, and autonomous) fundamentally relies on the non-human (as irrational, instinctual, and primitive) for its assertion of value. In this sense, the criminal’s savage identity depends on a notion of the human as a being whose essence is defined in alterity with internal nature (characterized as passion, emotion, instinct) and external nature (the non-human world).

Nature and reason are central to the modern construction of the universal subject as rational, competitive, autonomous, able-bodied, and self-interested; rationality, together with a notion of individual free will based on the conceit that individuals choose what they think, produces the autonomous liberal subject (Brown 2006, 152). The core of liberal thought is the belief in the rights and freedoms of the individual; in this perspective, legal subjects are separate autonomous beings who must be held accountable for their behaviours. The concept of rationality “naturally” restricts the extension of liberal equality (Goldberg 1993) and justifies harsh treatment for those defined as criminal because the risky dangerous Other is conceived of as being less rational (closer to nature) and therefore deserving of treatment otherwise reserved for “animals.”

Naffine (2011) explains that although the law is alleged to be impartial in its interests and composition, in practice it assumes that the human is an objective and fixed category of
being whose characteristics correspond to the White, male, adult, able-bodied individual. The law thereby excludes Others from the privileges of genuine personality and, therefore, of human rights, as I show in Chapter 6. Legal scholarship assumes that there actually exists a paradigmatic person (the rational, autonomous, individual adult) whose legal characteristics do not require analysis, and that there also exists a series of “limit cases” whose situation requires special study (e.g. foetuses, babies, the very elderly/infirm) (Naffine 2011). Weheliye (2014) suggests that Black, Indigenous, colonized, insane, poor, disabled, and incarcerated bodies also serve as limit cases. In this view, the human is perceived as discontinuous with the rest of nature as a species that is distinct and unique in its nature and value (Naffine 2011). Further, the human tends to be treated as an irreducible category that transcends place and time rather than as a legal construct whose content depends on decisions made by law-makers who serve particular cultural and political ends and answer to the interests of the powerful. It is the powerful who ultimately decide, according to their understanding of who and what matters, whether abstract rights should attach to an entity, thereby bringing a legal person to life; it is a political decision to personify rather than a function of the (supposed) nature of the entity (Naffine 2012).9

In his examination of the political economy of personhood, Mills (2011) points to “the reality that, historically and still currently, most humans were not and are not socially recognized persons” (2). For example, anyone experiencing a period of dependency (e.g. refugees, criminalised people, children, adults with impaired mental functioning, the elderly, many women, and people receiving social assistance) are not authentic persons because they cannot participate in a moral and political community of equals (Naffine 2011; Nussbaum 2006). Crucially, the attribution of personhood determines access to human rights. Naffine (2011) argues that by granting legal rights and duties, law establishes certain beings as legal persons, right holders, and duty bearers; conversely, by denying legal rights and duties, law “un-persons.”

In other words, the law can dehumanize. Criminalized people are commonly denied rights that others enjoy and this is accepted because of their dehumanized or animalized status. In her tracing of the persistent image of criminals as “beasts” from the 16th century

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9 Weheliye (2014) illustrates the idea the law adjudicates who may possess a body (habeus corpus) and, therefore, full humanity, through the Dred Scott case in which it was found that “Negroes” were not persons because their ancestors had been brought from Africa and sold as slaves.
until today, Olsen (2014) uses the concept of animalization to underline how describing a perpetrator as “savage” or as a “beast” suggests they are instinct-driven, bestial, and inherently vicious. Through such processes, prejudices about criminals being less than fully human have been validated and their harsh treatment before the law justified. As a consequence of the analogy between criminals and animals, methods of control such as caging, beating, chaining, and limiting diet have been generalized from use on animals to use on animalized humans (Olsen 2014). I find that in addition to these violent techniques, the youth I spoke with were also treated like animals through the erasure of their personal histories (Chapter 5), the denial of human rights (Chapter 6), and their treatment as disposable (Chapter 7).

Coupling animality with crime contributed to the post-Darwinian foundations of Lombrosian criminal anthropology. According to Lombroso, a well-known 19th century criminologist, it could be proven empirically that certain atavistic and degenerate criminals resembled vicious animals and savage, primitive people. For example, Lombroso stated, “Many of the characteristics found in savages and among the coloured races are also to be found in habitual delinquents” (Chan & Chunn 2014, 5). Rather than being amenable to rehabilitation, criminals were perceived as incorrigible since signs of animality suggested that crime was innate in certain types of people just as deviance was thought to be in animals. The concept of the criminal was thus constructed in literature and law as a category of subhuman existence that could be treated viciously (Olsen 2014).

The animalistic, Lombrosian “born criminal,” though scientifically disproven, continues to influence popular representations of criminals today (Chan & Chunn 2014; Olsen 2014). Mawani & Sealy (2010) argue that colonial knowledges of racial inferiority underpin the disproportionate incarceration of First Nations and African Canadians; the idea that these groups have “natural” propensities toward crime has been discounted through empirical research, yet contemporary crime control narratives continue to connect racial identity with criminality and justice statistics support this claim (see Chapter 3). In a time of decreasing crime rates, the persistent fear of victimization by a racial Other reflects the fear of Black masculinity that has been an aspect of North American life since the colonial period (Mawani & Sealy 2010). Moreover, media headlines such as “Hunted Beast: Rapist Sought after Attack” and images from Abu Ghraib Prison of an American soldier leading a naked
Iraqi man on a leash demonstrate that the Western equation of criminals with non-human animals and the treatment of prisoners as beasts are not behaviors only of the past (Olsen 2014).

The dehumanizing and objectifying language of dirt and contamination in reference to crime and criminals is common in the media and in popular debate, with epithets such as scum, dirt, vermin, and filth commonly used to vilify offenders. Similarly, crime is likened to a beast, disease, pathology or virus (Canton 2010). Welfare recipients and criminals are parasites. Dehumanizing metaphors are also frequently enrolled to dehumanize refugees conceived as aliens, parasites, floods or waves. Canton (2010) points out that these figures of speech and thinking exercise powerful and subtle influence on the way that people perceive, understand, and respond to immigration or criminal justice debates. Thibodeau and Borodistky (2011) found that, depending on the metaphor presented to them, people thought differently about crime and favoured different solutions. The tendency to regard the offender or the refugee as different—as Other—neutralises compassion (Haidt 2012, 235). For example, the familiar metaphor of “war against crime” urges a view of offenders and, by association, their families and associates, as enemies to be conquered by force. The “war on terror” constructs Muslims in similar ways. In war, enemies are often likened to beasts, brutes, or animals; through these processes, the enemy (the criminal, the alien) becomes a legitimate target of violence undeserving of empathy or compassion (Kochi 2009; Canton 2010). As Deckha (2010) argues, racialization on its own is not enough; Others, whether criminals, refugees or enemy combatants, must also be dehumanized for the public to accept what is done to them. These constructions reify species divisions through the implication that normative humans, unlike the animalized humans who took part in this study, do not engage in “beastly” crimes (Olsen 2014).

Next, to clarify how the above ideas have come to dominate contemporary Western society and institutions, I show how the human figure has developed historically in such a way as to permit the rejection of criminals, refugees, and racialized Others from the human category.
2.4 Humanism’s Historical Development

This section briefly traces the development of humanism and the ways in which humanist discourses have altered and accommodated to shifts in thought over time. I draw primarily on the historiographical work of Anderson, Wynter, Salih, Agamben, and Haraway, whose scholarship collectively shows that the question of whether and to what extent the human is separate from and superior to nature has absorbed Western scholars, theologians, politicians, scientists, and philosophers for millennia. As Agamben suggests, “In our culture, the decisive political conflict which governs every other conflict is that between the animality and the humanity of man [sic]” (2004, 80). In his analysis, the question of the animal was not merely one among many that was debated by scientists, theologians, philosophers, zoologists, and politicians, but the fundamental question that guided all other inquiries in ethics, politics, jurisprudence, science, theology, and philosophy, and which still confounds resolution.

Given the complexity of humanism’s historical development it is not possible to encapsulate it here in a way that would do justice to the intricacies of the processes involved, which stretch from Aristotle and the Torah, through Linnaeus and the European Enlightenment, to the present day. Moreover, although humanism’s foundational dichotomies are crucial to my analysis, my purpose in this dissertation is to offer a critique of humanism based on the empirical work undertaken during my doctoral research rather than to provide a philosophical exposition. Therefore, I offer here only a brief précis beginning in the 16th century.

16th to 19th Century

Kay Anderson (2000; 2006; 2012) and Sylvia Wynter (1984; 2003) focus on the period 1600-1850 to demonstrate how, over time, the natural order was secularized (even though many people continue to believe that it was divinely created) and came to be seen as more complicated than a simple chain. For example, Linnaeus’s “system of nature” offered a methodology for categorizing every form of life based on an idea of species (and race) fixity. While Linnaeus’s schema posited a place for humans within nature, his influential system included a hierarchy among homo sapiens that described civilized Europeans as being governed by “laws” and primitive Africans by “caprice” (Eze 1999, 13). Hegelian philosophy
also defined Africans as an inferior subspecies “without history.” Hegel argued that Africans lived in “barbarism and savagery in a land which has not furnished them with any integral ingredient of culture…The Negro is an example of an animal man in all his savagery and lawlessness” (quoted in Eze 1999, 127-8). Like Orientalism, which made “Orientals” out to be backwards, barbaric, and ahistorical, Africanism provided a means of dominating and representing Africa such that Africans and Orientals are perceived as primitive and less-than-human, lacking in history or culture. In the contemporary era, Canadian visible minority census categories continue this work, being comprised of national/political groupings (e.g. Korean) for all categories except “Black” and “Arab.” These flattening categories reinscribe the notion of a people without history. In Chapter 5, I suggest that the construction of Africans and “Orientals” as ahistorical underwrites the erasure of the personal and cultural histories of the youth I spoke with.

Focusing on the discursive production of social groups in terms of base drives, proximity to nature, lack of civilized manners, sensuality, and infantilism, Anderson (2006) uncovers the ways in which rational capacity, correlated with skin colour, came to be seen as the crucial difference between racial groups (Anderson 2006). Her analysis shows that during the European Enlightenment, the argument for human distinction became elaborated as a stadial movement out of nature, with the capacity to “improve upon nature” through the application of European methods of agriculture imagined as the basis for a hierarchy among innate races. Imperialism furnished the means through which conceptions of what counted as human could be applied systematically as forms of classification; those who had transcended nature were civilized while those who had not were savages. Thus, racial hierarchy was the mechanism by which White Europeans in the colonial period placed groups outside of the legal and moral category of the human (Anderson 2006; Ko 2015b; Smith 2012). Savages (e.g. Indigenous Americans, Australians, and Africans) who did not engage in European cultivation techniques were deemed backwards and placed between civilized (finished) “man” and the rest of brute nature (Anderson 2006; Salih 2007a). This idea remains important today in the category of “animalized human” which I argue includes the refugee

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10 Ruddick (1996) notes that while most White Canadians would likely not dream of lumping Belgians, Poles, Norwegians, French, Czechs, and Italians into one category and considering them somehow linked to crime committed by a member of one of these, many readily lump Americans, Bermudans, Jamaicans, Ethiopians, Rwandans, Australians, Samoans, and South Africans into a Black category.
youth I spoke with. Through such discourses, propertied European males retained their claim to specialness and humanness, distancing themselves from their bestial origins by inserting “inferior” cultural and gendered Others as liminal humans between themselves and animals. The ascent toward civilization was simultaneously an ascent toward humanness in which Othered humans were animalized such that the construction of race contained within it assumptions about species difference; in other words, racial discourse is inherently a discourse on the human (Anderson 2006; Deckha 2008).

Like Linnaeus, Darwin also controversially proposed that humans were part of, rather than separate from nature. Building on his theory of evolution, the 19th century idea was that evolution no longer operated on physical “man” (who was already at the pinnacle of evolution), implying that racial types were relatively fixed. Racial diversity came to be understood as having been achieved so long ago that racial permutations had become permanent (Anderson 2006; Anderson 2012). At the same time, reason became both the defining feature of humanity and also a capacity; therefore it was possible for it to be not quite fully developed among some groups (Anderson 2012). Scholars began to hypothesize that savagery was in all humans but some groups had overcome barbarism through the application of particular forms of reason, while others still embodied it. Although the cause of differential development was debated, colder climates were seen as presenting greater demands thereby leading to enhanced development and more power over nature, and accelerating the process of becoming fully human. Racism and the human conceived as a movement out of nature were mutually constitutive. Through these processes, the faculty of mind, located in the head, came to be understood as the crucial agent of culture (Anderson 2012). Scientists sought to prove the thesis of human exceptionality in physical or material terms by demonstrating that the brain (rather than a mysterious mind/soul as in earlier explanations) was the seat of reason which provided the defining feature of humanity. However, some groups were seen to be arrested in the early stages, more tied to physicality (i.e. to body/nature), and having a less developed brain and intellect (Anderson 2006; Anderson 2012). These perceptions persist, for example in the recent claim by a DNA scientist that Africans are less intelligent than Westerners (Milmo 2007), and in The Bell Curve, which linked race, intelligence, poverty, and criminality (Herrnstein & Murray 1996).
Because of the importance of mental development in evolutionary theorizations of the
human, measuring the intellect of different groups grew, in Anderson’s (2006) words,
increasingly obsessive. Specifically, craniology became a centrally important science that
also greatly influenced criminology (Anderson 2006). For example, the influential 19th
century criminologist, Lombroso, ostensibly proved that criminals’ skulls resembled those of
savages (Chan & Chunn 2014). Craniology allowed diverse modes of being to be categorized
and ranked scientifically as craniologists and physical anthropologists correlated “known”
levels of development with variations in skull size and shape as part of a larger struggle to
establish both scientific racism and a notion of human life as somehow separate and superior
to all other life forms (Anderson 2006). Unsettling the discourses of humanity, animality,
culture, and savagery therefore furthers understandings of racism’s profound durability.

Salih (2007a) also examines the production of the “human” and the “animal” in the
era of slavery. In an attempt to understand why “science” is so invested in proving the
existence of a static boundary between humans and other creatures, she focuses on the
discursive functions served by the orangutan in the works of Long and Buffon. Salih (2007a)
argues that this effort, which has origins in Judeo-Christian religion and Cartesian dualism,
has led to a continuous manipulation of the human/nature boundary to suit the politics of the
day. According to Long, God had diversified the human species on the basis of intelligence.
Based on this understanding, Long assembled a hierarchy with “apes” at the bottom,
followed by “Negroes,” and from there the ascension continued through increasingly lighter
complexions until the pinnacle of human perfection was reached in Whiteness and
Europeanness. However, Long proposed that orangutans were human and that Negroes were
also members of the same human subspecies. Insisting that Negroes and Whites were
different subspecies, Long argued that Negroes were immoral, did not practice cultivation,
produced no worthwhile art, and behaved in generally barbaric ways. Long also provided
evidence of what he claimed were sexual encounters between apes and African women (Salih
2007a). Salih also describes Buffon’s alternative approach. Since primatology could identify
no physiological evidence of human superiority, Buffon argued that an internal principle of
thought distinguished humans from all other beings; only humans could think because God
had uniquely conferred mind, thought, and speech on humans and these faculties were most
developed among Europeans (Salih 2007a).
Salih (2007a) suggests that the discourse of Western primatology is sexualized and racialized because the definition of the gendered, White, Western self is fixed in relation to a dark, furry, feminized “ape” Other. Thus, she concludes, racism and sexism are forms of speciesism deeply invested in significations of the human and the animal. Racism and sexism create what Anderson (2000) terms the “racialized bestial,” which corresponds to the figure of the dangerous Black/Muslim male that overshadows the experiences of my young research participants. Notably, the debate over how to categorize “humans” and “apes” continues. In 1962, Goodman, an internationally renowned biological anthropologist, suggested that chimpanzees and gorillas should be included in the “human” family *hominidae* (Grossman & Wildman 2014). More recently, Wildman et al (2003) demonstrated that 99.4% of the functional DNA in humans and chimpanzees is identical. As a result, they suggest that chimpanzees and bonobos should be reclassified into the genus *homo* along with humans (rather than in *pongidae* with other “apes”).

Wynter’s (1984; 2003) tracing of the historical development of the human elaborates Anderson’s and Salih’s analyses. She explains that what Foucault refers to as the “invention of man” in the opening quotation references the redefinition of the human by Renaissance humanists on the secular model of a natural organism outside the terms of the theocentric, “sinful by nature” human on whose basis the hegemony of the Church had been justified. This reinvention, which had profound effects on subjectivity, was effected in two movements based on scientific developments that were made possible by colonization. The first shift took place from the Renaissance to the 18th century, and the second from the 19th century until today.

According to Wynter (1984; 2003), during the earlier time period humans were redefined from religious subjects of the church to political subjects of the state. Fear of original sin, for which the cure had been godliness and repentance, was replaced with fear of the internal (passion, emotion, instinct) and external state of nature, for which solutions entailed following the orders of the state (Wynter 2003). The liberal political subject is a contemporary trace of the state of nature hypothesis developed by Hobbes, in which self-interested men engaged in a competitive war of all against all until a social contract was achieved by consensus under the auspices of a state through the creation of legal categories, including personhood. The contemporary institution of citizenship connects intimately with
suppositions of human rationality in part because of its foundation in the social contract: the civilized state is thought to have arisen via the social contract through the human application of reason to savage nature. Engagement in contractual relations requires rationality (Nussbaum 2006). Following the shift from Religious to Rational/Political Man, difference was charted onto the separation of divinely-created humans and divinely-created animals defined in terms of rationality. While earlier Others had been heretics, infidels, and pagan idolaters, the Others of Rational Man were the savage non-European peoples of Africa and the New World (Wynter 2003).

The second shift was from Political Man to what Wynter (2003) terms “Bio-economic Man.” She suggests that after Darwin insisted that humans are animals, the ruling classes needed to justify their privilege in different terms, leading to a further reconfiguring of difference to selected/dysselected (by evolution), or evolved/unevolved. Wynter reveals the ways in which the negative tropes attached to the 19th century figure of the Negro marked the culmination of a process that began in the 16th century with the Linnaean taxonomy of human population groups that had placed Africans at the bottom. Race was the colonial difference upon which the new human/subhuman distinction was to be grounded as a “law” that ordered which groups had been determined by nature to possess rationality and those classified by nature as people without reason. The former group was made up entirely of Europeans, who were perceived as “natural masters,” while the latter group (primarily Indigenous people and “Negroes”) comprised “natural slaves.” Thus the “ethnoclass” (Western bourgeois) conception of the human based on a notion of selection/dyselection was anchored scientifically on the “objective facts” of climatically determined phenotype. The principle of natural selection (in which one’s selected status could be verified by economic success) was institutionalized in the colour line and enforced by forms of socioeconomic domination that continue to this day (Wynter 2003), including through the criminalization and dehumanization of the young people who took part in this study.

For many people of European origin, the Renaissance “birth of humanism” represents a triumphal coming of age story. However, Wynter (2003) cautions that the other side of the humanist coin is dehumanization because to be not-Man is to be not-quite-human. This is precisely the situation of the criminalized refugee youth I spoke with. Wynter argues that the ethnoclass genre of Man, which over-represents itself as the human, functions at all levels of
society, including race, class, gender, sexual orientation, ability, as well as in the creation of the criminalized, jobless, poor males and “welfare moms” as the central organizing features of North American society. However, despite the problems she identifies with the concept, Wynter would hang on to an anthropocentric notion of universal humanism that accepts human consciousness as unique; although she seeks to expand the definition of the human to include those who are not-Man, she sees the solution to humanist dilemmas in revisions to, rather than rejection of, humanism (Wynter 2003).

20th to 21st Century

Donna Haraway (1989) takes up the trail in the 20th century. In Primate Visions she describes developments in physical anthropology that took place as part of the process of establishing human universals in politics, science, and the social sciences. She shows how the construction of “universal man” or, what it means to be generically human, is synonymous with Western scientific men, especially in the United States (US) in the 1950s when the definition of the human was being reconfigured and codified in United Nations (UN) human rights documents after World War II. Her starting point is the idea that evolutionary discourse, including paleoanthropology and primatology, is a form of imaginary history in which the “human” is a social construct rather than a biological given (Haraway 1989). As Anderson (2006) also emphasizes, species divisions depend on the questions asked.

Following WWII, the newly formed UN undertook efforts to construct a universal human being as part of an effort to overcome the idea that non-White races were inferior subspecies, following the mass death and devastation that resulted from such thinking during the war. The agenda for physical anthropology in this context was to produce a human figure capable of sustaining the UN humanist discourse codified in the 1948 Universal Declaration of Human Rights and the 1951 UNESCO Statements on Race. Against the dominant scientific racist view that presumed the existence of human subspecies, some scientists sought to demonstrate the unity of humankind as well as its uniqueness relative to other species.

11 Building on Wynter’s analysis, Weheliye (2014) wonders what different modes of being human become available if we do not take the liberal humanist figure of Man as the only form of subjectivity. He argues that accepting suffering as integral to human being, rather than a dehumanizing exception, would open up alternative understandings of humanity. Accordingly, he critiques strains of posthumanism that view the humanist subject Man as the figuration of the human to be overcome without considering other ways of being human. Weheliye would like to demolish Man but retain the “natural” human; I suggest that the two concepts are inseparable.
Behaviour, especially defined in terms of “way of life” or culture became a key concept, and “population” replaced race as the central object of scientific study. The new discourse focused on functional, behavioural adaptation to the environment rather than typological traits ranked from primitive to advanced. However, questions about inherited intelligence and of natural cooperation versus competition were fiercely debated; ultimately old ideas about race were adapted and recuperated into new notions of culture and population. Since cultures could be quantitatively ranked from simple to complex, far from transcending religion and politics, science provided a fertile ground for them to thrive in new forms (Haraway 1989). Contemporary scholars continue to try to link race to intelligence (Chan and Chunn 2014).

The UN worked with physical anthropologists and social scientists to develop a unified vision of universal humanity via a re-historicization of the human based on an extrapolation of skeleton and muscle shape to culture, thereby providing a scientific basis for the construction of a universal humanism. The idea that through culture “man” makes himself became the basis of the unity of humanity and provided a new foundation for the Western separation of nature from culture. Since behaviour does not fossilize it has to be imaginatively reconstructed. Bipedalism and tool use (“culture”) were seen as enabling the hunting way of life as the crucial universal adaptation that separated humans from other life forms. Thus, “Man the Hunter” became the script for what it meant to be human in the Western sense of unmarked, universal species being (Haraway 1989). Conveniently, through hunting, men became natural providers, natural imperialists (since hunting requires territory), and natural aggressors and competitors. Sex differences in behaviour also evolved “naturally” from the hunting way of life: while hunting demonstrated universal principles, gathering (carried out by women) was defined as a localised practice. Male dominance hierarchy was deemed another key feature of universal humanity, necessary to maintain the social group, the core of which is the nuclear family. During the 1960s this universal vision would be deconstructed by feminists and post-colonial scholars who failed to perceive “universal man the hunter” in their experiences of what it meant to be human (Haraway 1989). This dissertation continues that deconstructive work.

Having traced the historical development of Man, I next show this figure underlies contemporary categories of humanist identity.
2.5 Categories of Humanist Identity

In this section I highlight how constructions of humanity and animality resonate through criminalization in categories of human identity that both draw salience from and reinforce the human/nature binary. I focus on race, class, gender, age, ability, and refugeehood in order to better understand the experiences of the poor and racialized male refugee youth who took part in this study.

Race

Many authors have argued that race remains a critical organizing feature of Canadian society. For example, Chan and Chunn state plainly, “Race matters, and in the context of crime and criminal justice, it matters a lot” (2014, xiv). Specifically, they argue that “laws and policies reflect the subjectivity of the powerful—the White, affluent, adult male. It is his behaviour that forms the basis of proscriptions and remedies and it is he who those in power imagine when they construct the law” (xv). A review of the tortured descriptions of visible minority categories will dispel any doubt that race is a salient organizing feature of Canadian society. Galabuzi (2006) argues that the process of minority formation is central to the Canadian political economic order and that the term “visible minorities” fixes the identity of racialized groups for all time as the Other in Canadian society. Their interests will always be “special interests,” allowing the majority to feel justified in carrying out acts of oppression, discrimination, and aggression in defense of the interests of the majority, an ideological position that is reinforced by the media and educational institutions that maintain “invalidating myths” about minority groups (31). The creation of racialized minorities builds on the human/-non-human binary; according to Weheliye, racialization “comprises ongoing political relations that require, through constant perpetuation via institutions, discourses and practices, the omission of non-White subjects from the category of the human as it is performed in the modern West” (2014, 3). Chan and Chunn (2014) add that race is the key risk factor in determining dangerousness and criminality in modern Canada and underlies widespread anxiety about Black criminality based on the idea that young Black men are especially prone to crime. These ideas are exacerbated by the war on crime, war on drugs, and war on terror, which target primarily young Black and Arab men; meanwhile, politicians capitalise on middle-class anxieties by promoting tough-on-crime measures aimed at low-
income populations (Chan and Chunn 2014; Thornhill 2008). As a consequence of these processes, the suspension of rights such as those that I describe in Chapter 6, and the violence that I detail in Chapter 8, appear not as violence, but as the law.

Two “strands” of racism are most relevant for the current study: anti-Black racism and Islamophobia/Orientalism. Both have roots firmly anchored in Western humanism’s encoding of Africans and Muslims as bestial, savage, and barbaric (Said 1979). Since most of the youth I spoke to were both African/Black and Muslim, these discourses are critical in defining their experiences in contemporary Canada. Evidence of widespread hatred and fear of Muslims in Canada is overwhelming and there is not space to reproduce it here (e.g. Kazemipur 2014; Gova & Kurd 2008; Helly 2012; Perry & Poynting 2006; Razack 2004). Anti-Muslim media discourse portrays Muslims/Arabs as violent, evil, savage, deceitful, and warlike (Bakht 2006; Daro 2015; Smolash 2009). These ideas underpin the 2011 Herouxville Charter, Parti Quebecois Charter of Quebec Values, and Zero Tolerance for Barbaric Cultural Practices Act which passed into law in 2015, as well as rhetoric from senior politicians. The ban on facial coverings during the citizenship ceremony implies that some cultures are intolerant and “barbaric,” as stated in the Citizenship Guide (CIC 2012, 9).

Chan and Chunn suggest that “as these images become normalized, White subjects seek to distance themselves from the racialized Other, legitimating ideologies and images that mark the Other as inferior, irresponsible, immoral and subhuman” (2014, 19). At the heart of these ideas is a perceived fundamental difference between Muslim and other cultures. Similarly, the existence of widespread anti-Black racism has been amply and repeatedly demonstrated by Canadian scholars and does not require rehearsal here (e.g. Abdi 2005; Bashi 2006; Block & Galabuzi 2011; Creese 2011; Dei 2005; Diene 2004; Galabuzi 2006; Madibbo 2005; Manzo & Bailey 2005; Masinda & Ngene-Kambere 2008; Oxman-Martinez et al 2012; Tanovich 2008).

Species thinking creates racial divisions. As Razack notes, “Racism is the denial of a common bond of humanity between people of European descent and those that are not” (2008, 6). Since racism requires animality in order to make sense, combating racism requires taking seriously the status of the animal as the opposite status of the human; therefore, understanding the racialization of criminal justice processes calls for a study of the human figure that underpins those processes.
Class

Humanist assumptions about our inner animal, manifested in sensuousness, affect, and instinct, also flourish in theories of class relations. Stoler (1995) shows how discourses of self-mastery defined bourgeois selves in the colonies and were productive of both racial disparity and middle-class identity. Her analysis reveals the contingent nature of the middle-class family developed during the period of scientific colonial expeditions which proposed the ideal European family as a natural and universal social structure in contradistinction to the immoral organization of relations in “primitive” human societies and among non-human animals. Middle-class respectability, especially in the domestic sphere, was closely linked to racial affiliation. Because rationality is viewed as the ability to act contrary to the laws of our own nature, civility, self-control, and discipline aimed at taming/domesticating the savage inside us are productive of racial distinctions, which are in turn affirmed in the ideal patriarchal nuclear family as a key site of culture and civilization (Stoler 1995). The cultivation of bourgeois respectability also betokened a strategy to yoke the labour of the working-classes and of non-White subjects (and non-human animals) via the need for Other bodies to perform domestic services and ensure leisure time. Simultaneously, bourgeois morality was allied strategically with the authority of 19th century liberal states through discourses that revolved around the dangers of internal enemies defined in terms of class, race, and gender (Stoler 1995).

An important hypothesis underlying class definition which arose during colonialism, and was developed further by Freud, is the notion that savage peoples, the mentally disordered, some women, children, and the working classes are unable to self-govern (Anderson 2000). According to Freud, in “primitive men…thought passes directly into action” without the intervention of reason (quoted in Brown 2006, 149). Based on these ideas, Gottfredson and Hirschi developed a General Theory of Crime suggesting that ineffective childhood socialization tends to produce an enduring criminal disposition characterized by a lack of self-control that remains stable over the lifetime of the individual (LaGrange et al 1999). Control theories take their philosophical orientation from a notion of humanity as separate from inhuman nature, and autonomy and rationality as the ability to tame the savage inside us. In this perspective, savages, unlike civilised people, are perceived to be subject to nature’s every whim. Thus, criminological control theories are also
fundamentally linked to humanist notions of race and class. In contemporary narratives, a large body of literature ostensibly demonstrates that middle- and upper-class children have a higher tendency to defer gratification than those of the lower classes, and that children from working-class or Indigenous backgrounds are more impulsive and physical, less diligent, and more easily excitable. In effect, lower class culture and racialized identity suppose an association with an eroded work ethic, reduced ability to control impulses and, accordingly, an increased propensity to criminality (LaGrange et al 1999).

Poverty is frequently linked to crime as people living in poverty are vastly overrepresented in Canada’s prison population. Pointing to the role of class position in sentencing processes, Comack & Balfour (2004) suggest that the legal system sees wealthier offenders as not only required lesser punishment (given their conformity with the capitalist system), but also deserving of such. At the same time, criminological theories such as Broken Windows Theory and Situational Crime Prevention conflate notions of appropriate spatial behaviour and organized (i.e. safe, law abiding) communities. Each theory suggests where crime can be expected to emerge based on an assumption of the absence of middle-class norms and therefore police tend to target poor neighbourhoods (Herbert & Brown 2006). As a result, wealthier offenders in Canada are rarely sentenced to prison. Thus, for Reiman (2007), the criminal justice system functions not to eliminate crime or achieve justice, but to project an image of the threat of crime as emanating from the poor. The focus on individual crime also acquits the social order of injustice; for example, if present property arrangements are legitimate then it is the violation of such arrangements by those without property that is deviant while, at the same time, poverty is seen as a sign of weak character (Reiman 2007, 171). Simultaneously, corporate crime is rendered invisible, with the result that the typical crime is seen as street crime and the typical criminal is imagined as a poor, young male (Snider 1999, 183).

Moreover, Olsen (2014) argues that intellectuals have long been in the habit of regarding the poor and uneducated as subhuman, beast-like, ignorant, squalid in their living conditions, excessively emotional and sexualized, and lacking the accomplishments supposed to be distinctively human such as literacy, numeracy, manners, and a middle-class sense of time and bodily comportment. Drawing on Wynter’s work, Scott (2000) suggests that the goal of our mode of production is not to meet the needs of all humans, but to secure the well-
being of those whose identity aligns with the ethnoclass criteria. Bio-economic notions of freedom relegate people of African descent, the poor, the jobless, the homeless, and the underdeveloped to the ranks of not-Man. In Scott’s words, these are “expendable throwaways” (Scott 2000, 195). I return to these ideas in Chapter 7 to explore the role of disposability in the lives of the young people I spoke with.

Ability

Since Descartes hypothesized the separation of mind and body, the body has been the abject Other of the modern subject even as it signifies subjection. Based on these ideas, the civilizing movement as understood by Europeans during the colonial era embraced a perception of change towards bodily conduct characterized by self-discipline and restraint. Increasingly, the civilized body needed to conceal its rhythms, was highly individualized, and competently managed; thus, the civilized body could be distinguished from the uncivilized by its control over bodily impulses and the extent of emotional suppression, with fear, shame, and disgust playing important disciplinary roles (Ellis 2000). Due to their perceived lack of restraint, “disabled” bodies, along with “fat” people, animals, and racialized peoples, are perceived as vulgar, gross, and out of control. By the same token, stereotypes about “crazy people” function to construct people with adaptive or developmental disabilities as mindless bodies containing rational and sometimes linguistic deficiencies whose opinions and sensibilities need not be consulted.

Focusing on the instrumental function of dehumanization in ableist discourses, Mitchell & Snyder (2003) examine disability and race within scientific management systems developed from the end of the 18th century to the conclusion of WWII. They suggest that eugenicists justified drastic measures for disabled bodies by expunging human attributes in order to turn disabled people into “biologies deprived of sentience” (856) based on the understanding that equality may be legitimately denied to bodies with deficiencies that make them less than fully human. For example, during their eugenics program, the Nazis murdered around 250,000 people with disabilities, yet those deaths are not widely recognised as a crime against humanity. Pointing to the intertwined fate of populations defined in terms of racialization and disability that share an identification as subhuman, the authors conclude that disability is a “master trope for human disqualification” (Mitchell & Snyder 2003, 859).
These ideas are amply demonstrated in the lives of people with mental illness in the
criminal justice system, which includes several of the young people who participated in this
study. Through a discussion of the disproportionate criminalization and deportation of the
mentally ill and the false associations between mental illness and violence, Joseph (2014)
shows how “technologies of violence owe their inheritance to the Orientalizing, discursive
practices and disciplinary hegemony developed during colonization that reproduce the
dehumanizing outcomes upon which they were built” (Joseph 2014, 273). Joseph argues that
the treatment of racialized minorities diagnosed with mental illness allows for the erasure of
subaltern voices. He suggests that the media routinely report incidents involving someone
with a mental illness who has committed a crime by presenting the person as violent,
aggressive, uncontrollable, and unpredictable. Consequently, as I also show in Chapter 5, the
accused’s voice is not heard: like animals, their social, historical, and political contexts are
not considered relevant (Joseph 2014).

It is worth noting that, while explicitly racist terminology has been excised from
Canadian policy, ableist formulations persist through, for example, the “Excessive Demands
Clause” in immigration law which is used to prevent the immigration of people with
disabilities to Canada based on the idea that they are dependent and burdensome (El-Lahib
2015; El-Lahib & Wehbi 2012; Wong 2011). The inferior status assigned to non-humans in
humanist ontologies naturalizes ableist formations because such constructions draw their
conceptual strength from the disparagement of non-humans in humanist frameworks. Taking
this idea one step further, I suggest that the criminalization and marginalization of people
experiencing mental illness performs the dehumanized figure lacking in autonomy and
rationality by further animalizing bodies already deemed to be closer to nature and, therefore,
inferior to normative humans.

Age

Children in the modern era are frequently presumed to be closer to nature, lacking in
rationality, driven by instinct and emotion rather than thought, and consequently not fully
human (Cornell 2016; Kaplan 1996; Kincaid 1998; Naffine 2012). For example, the idea that
children lack rationality is offered as a justification to deny them the ability to vote on laws
that affect their lives (yet adults may vote, regardless of their level of political awareness or
Corporal punishment may be legally used against children, while the same action taken against an adult would be criminalised as “assault.” Children, criminals, and non-human animals comprise categories of beings with limited rights, against whom violence may be legally and legitimately leveled, due to their animalized natures.

Schissel (2002) notes the ways in which the nuclear family has been constituted to aid capitalist production. The state responds to the demands of capital by helping to create and maintain (through medicine, education, and the law) the nuclear family as the legitimate family system in which the discipline necessary to create a productive capitalist society maybe produced and monitored. During the 19th century, the young were created as legal property (not persons) in the context of familial power relations and disciplinary techniques; the family RELIGION-based model of discipline and punishment was essential to the management of delinquent children and to the production of compliant and productive individuals. This model serves as the template of disciplinary techniques in modern institutions of social control (Schissel 2002). As a consequence, the juvenile justice system is largely reflective of class concerns (Ferdinand 2009) and therefore of humanism.

Fear of youth crime combines in complex ways with negative stereotypes about poor people and neighbourhoods, immigrants, minorities, and youth. For example, ecological theories arising from the Chicago school suggest that minority youths resident in marginalised urban communities are less able to achieve the dominant goals of society and are therefore more likely to turn to crime (Schulenberg 2003; Herbert & Brown 2006; Valier 2003). Chan and Chunn suggest further that criminal, racial, and class identities fuse together in the popular imagination in which young jobless Black males assume the dehumanized role of “folk devil” (2014, 15).

Gender

Considerations of normative gender and sexuality also mark what qualifies as the human. The concept of the human harbours a masculine bias (among others) because the male/female and human/nature dualisms intertwine. Accordingly, feminists have devoted attention to the figure of the human in order to elucidate how the figure’s implicit gendering grounds the production of inequality through presumptions about feminine connectedness.
with nature contraposed with male rationality. Those differences are affirmed in the ideal patriarchal nuclear family, organised in conformity with a notion of purportedly ubiquitous and naturally occurring male dominance, as a key site of culture and civilization (Haraway 1989; Plumwood 1996; Stoler 1995).

The Cartesian mind/body split has adverse implications for women, people of colour, the environment, and non-human animals who have historically been reduced to their bodies. Based on dualistic thinking, Western philosophers developed a vision of “universal” human justice that excluded women and non-elite men from the realm of humanity (Deckha 2006, 66). Not wishing to place women in an entirely different species category, philosophers conceded that women and men shared a common human nature but asserted that women had incomplete development of reason, humanity’s defining trait. Their supposedly inherent rational defect prohibited the extension of liberal human rights to women and other marginalized groups which become feminized by their association with nature (Grear 2015; Plumwood 1994). White men became the exemplars of human nature while White women (if they conformed to prescribed roles) became exemplars merely of women, not humans. In these ways, domination became a legitimate and depoliticized dictate of nature beyond human agency (Deckha 2006, 74).

Identity categories intersect in highly complex ways; as a result, people who enjoy privilege in some circumstances may experience oppression in others. To emphasize the intimate connections among species, race, and gender, Ko (2015a) argues that the “[White male human] comprises a single category” such that there are not three separate categories that create the top level of the humanist hierarchy (White, human, and male), but one. The male youth who took part in this study likely find themselves in positions of strength in some situations, based on their gender. However, when combined with race, age, and class in the context of criminalization, the male gender is perceived as dangerous and violent, with the young, working-class, Black or Arab male epitomizing the deviant, frightening, and dangerous dehumanized Other.

Refugeehood

Racism, sexism, and classism also function to bind criminality with immigration. Media are crucial to the linking of immigrants, criminality, and terrorism, and constructing
the image of the dangerous Black immigrant male in the public mind (Chunn & Gavigan 2004; James 2002; Miller 2005; Mirchandani & Chan 2007; Roberts 2002; Warde 2013). Thus, following the highly publicised killing of a White woman by a Black man in 2005, the Canadian media drew direct connections between immigrants and violent crime, with one popular columnist stating, “Our culture is not used to this type of savagery” (Wortley 2009, 349). From a posthumanist point of view, the supposed contrast between culture and savagery points to a deeply held societal faith in the separation of humans from nature that is a core feature of penality in the humanist context. Arising from these ideas is the view of immigrants from primitive cultures who are unable to control their savage natures, while White Canadians are distanced from violence by their naturally superior rationality and culture. Dhamoon and Abu Laban (2009) further illuminate how discourses of foreignness, security, racialization, and nation state function through one another in the figure of the dangerous internal foreigner who legally belongs to the state but does not substantively belong within the nation (see also Provine & Doty 2011).

Refugees by definition lack the qualities that define the ideal human. As forced migrants they lack autonomy; having left behind home and family they become dependent on others for survival. Conceived as a “mass” or a flow, they lack individuality. At the same time, they are associated with violence, dishonesty, poverty, and criminality. Bauman suggests that refugees are represented in the dominant discourse as “the flotsam and jetsam of the planetary tides of human waste” associated with criminality, terrorism, dependence, parasitism, and adherence to wicked and barbaric habits and creeds (2004, 57). In Wasted Lives he argues,

There is a sort of ‘elective affinity’ between immigrants (that human waste of distant parts of the globe unloaded into ‘our own backyard’) and the least bearable of our own, home-grown fears. Refugees…are the waste of globalization…As the traditional method of human-waste disposal (through the exportation of surplus labour) ceased to be available…social problems are increasingly criminalized…’Human waste’ can no longer be removed to distant waste disposal sites [but] needs to be sealed off in tightly closed containers (58-60).

In line with the arguments I put forth in Chapter 7, Bauman (2004) concludes that the penal system supplies such a container.
2.6 Conclusion

Darwin’s assertion that humans are simply a part of nature notwithstanding, most people in the West have not accepted the human as another animal, but rather see it as a being that operates on a fundamentally different and higher plane. Dominant assumptions about nature and the non-human run contrary to anti-racist and anti-colonial efforts because the justification for despising certain humans stems from a deep-seated contempt for non-human beings. Despite having been discredited by critical theory, the Western concept of “savagery” as a mode of living that is “closer to nature” is still pertinent today, alongside a persistent innatist concept of racial difference. These ideas are operationalized in institutional policies and practices in the criminal justice and other systems that impact the lives of the youth I spoke with through processes of dehumanization and the performance of a subhuman figure. That the disregard of non-human life is so entrenched in Western culture explains in part the persistence of colonial ideas about sex, race, age, ability, and class. However, even critical scholars who interrogate the exclusions that arise from the humanist delineation of the human figure would, for the most part, retain the human/non-human binary. This dissertation takes a different view, arguing that the critical task at hand is to undermine the human/non-human binary that underwrites much injustice, including that experienced by the criminalized refugee youth I spoke with, detailed in Chapters 5–8.

My aim in subsequent chapters is to explore what these insights contribute to understandings of the experiences of young refugees caught up in the Canadian criminal justice system, to investigate what youths’ narratives reveal about dominant conceptions of the human, and to offer a critique of the speciesism that underpins the human/animal distinction. Because the ideas that I outline here need to be interrogated empirically through the lens of lived experience in order to be fully apprehended, I pick up the themes from this chapter again when I present my empirical findings in order to demonstrate the specific ways in which humanist categories and exclusions are reproduced in the lives of criminalized refugees. First, however, I situate the analysis that follows within the institutions and policy frameworks of the Canadian immigration, education, and criminal justice systems that I argue operationalize humanist classifications and assumptions through their dehumanizing performance of the human and animal figures.
Chapter 3. The Institutional Field

“The increasing criminalization of poverty, which has a disproportionate effect on racialized people, is a clear example of how the state deploys ideological constructs, such as the labeling of poor people as dangerous, to legitimize punitive sanctions. Poor, racialized people are not only stigmatized by these policies, they are also branded as the ‘enemy’ for failing to rise about their predicament” (Chan & Chunn 2014, xvii).

“Racism, and in particular anti-black racism, is a part of our community’s psyche. A significant segment of our community holds overtly racist views. A much larger segment subconsciously operates on the basis of negative racial stereotypes. Furthermore, our institutions, including the criminal justice system, reflect and perpetuate those negative stereotypes. These elements combine to infect our society as a whole with the evil of racism. Blacks are among the primary victims of that evil” (Doherty, cited in Tanovich 2008, 655).

“The key point is not that the law is discriminatory and racism can be found in its rulings, rather it is that the Canadian legal system is a regime of racial power” (Thobani 2007, 54).

3.1 Introduction

The experiences of the criminalized refugee youth who participated in this study are located at the intersection of two major bureaucratic systems: immigration and criminal justice. To shed light on this systemic interaction, this chapter provides an overview of the criminal justice and immigration institutional policy contexts that ground the study findings and analysis presented in Chapters 5-8. I begin with an outline of the Canadian immigration system and then describe some of the settlement challenges that young refugees experience in their integration with respect to education, employment, and personal well-being. The second section examines relevant aspects of the criminal justice system starting with a review of policies, procedures, definitions, and statistics. I briefly survey criminological theories and models, and then describe relevant issues pertaining to racial profiling, mental health, and “crimmigration.”

3.2 The Canadian Immigration System

3.2.1 Overview

Immigration to Canada is divided into three broad streams: economic, family reunification, and humanitarian. All of the young people who took part in this study are humanitarian immigrants (refugees) and therefore I focus on refugees below. A second
important division is between Permanent Residents (PR) and Temporary Residents (TR). PRs enjoy most of the benefits of citizenship except that they may not vote in elections and their status can be revoked if they are found to have misrepresented information in an immigration application or, most importantly for the current study, for criminality. Once PR status has been revoked, the person becomes a TR and may be subject to a deportation order (see Crimmigration below).

Sponsored refugees include those sponsored by the federal government (Government Assisted Refugees or GARs) and those sponsored by private groups (Privately Sponsored Refugees or PSRs). PSRs are sponsored by groups of Canadian citizens who have signed an agreement with Immigration, Refugees and Citizenship Canada (IRCC\textsuperscript{12}), to sponsor and support refugees for at least their first year in Canada. GARs are selected abroad by the Canadian government usually based on referrals from the United Nations High Commission for Refugees (UNHCR). Among GARs, 60\% are under the age of 24; they therefore comprise a much more youthful population than any other category of entry (ISS\textsuperscript{of}/BC 2014).

Upon arrival in Canada, GARs receive one year of financial support from the federal government. Resettlement Assistance Program (RAP) rates are tied to provincial social assistance rates and inadequate to cover basic living costs (see Appendix A). In addition, the cost of transporting GARs to Canada is borne by individual GARs in the form of an interest-bearing “transportation loan” which is usually $1,500 - 2,000 per person.\textsuperscript{13} GARs are expected to begin repayment of the loan 30 days after arrival in Canada (ISS\textsuperscript{of}/BC 2010a).

A shift in Canadian refugee resettlement policy from selecting those deemed most likely to establish themselves independently in Canada, to those with the most pressing needs, occurred with the implementation of the \textit{Immigration and Refugee Protection Act} (IRPA) in 2002. However, few changes have been made to how refugees are supported in their integration process, despite the evidence that social programs geared to the mainstream do not adequately address refugee needs, particularly those coming from protracted refugee situations (Francis & Yan 2016; Hyndman 2011; Presse & Thomson 2007).

In contrast to sponsored refugees, asylum seekers arrive directly to Canada and request asylum. Their refugee claim is assessed by the Immigration and Refugee Board

\textsuperscript{12} Formerly, Citizenship and Immigration (CIC). The name change occurred while the current study was in progress. For consistency, I use IRCC throughout this dissertation.

\textsuperscript{13} This loan was waived for GARs brought to Canada from Syria in 2016, but still applies to all other GARs.
(IRB), an administrative tribunal responsible for hearing asylum seekers and determining whether they should be accepted as refugees. If accepted, refugees are referred to as Landed in Canada Refugees (LCR) and become eligible to apply for PR. Over the past 25 years the number of refugee claims brought to the IRB has varied between 9,000 and 35,000 annually, of which around half have been successful (ISS of BC 2014).

Overall, refugees from all categories make up less than 10% of total immigrants to Canada. Around 1,000 refugee claimants and 800 GARs enter British Columbia (BC) each year. Most refugees who arrive to BC settle in Metro Vancouver which, relative to other large Canadian urban centers, receives the smallest number and proportion of refugees and the largest proportion of economic immigrants (Hiebert et al 2008). Immigration of people from “Africa and the Middle East” (including all of the youth who took part in this study) to BC has been around 3,500 people per year over the past 10 years. This figure includes around 700 refugees, split more or less equally between men and women (IRCC 2016a; 2016b). Almost all refugees, including all of my informants, are members of a visible minority group.14 Out of the approximately one million people in BC who claimed visible minority status in 2011, a total of 28,315 identified as Black (including 13,830 immigrants), 8,635 as Arab (including 6,015 immigrants), and 29,810 claimed West Asian origin (including 25,505 immigrants) (Statistics Canada 2012). Muslims are also a tiny minority in BC; in 2011, a total of 79,310 people claimed Islam as their religion, including 55,875 immigrants (Statistics Canada 2012). Consequently, the refugee youth who took part in this study are minorities among minorities.

3.2.2 Settlement Challenges

This section looks at some of the settlement challenges that refugee youth and families experience. Some of these stem directly from the refugee experience itself. For example, GARs have often lived some or all of their lives in refugee camps, arrive from primarily oral societies to an intensely print-based urban environment, and tend to have the

14 The terms “visible minority” and “racialized” are not interchangeable because, while Aboriginal people are racialized, they are not included in the visible minority category, which comprises people who are neither White nor Aboriginal. Thus, “racialized” includes Aboriginal people, while “visible minority” does not. My discussion tends to focus on visible minority categories because those are the categories that apply to the youth I spoke with; however, many of the arguments I make about visible minorities also apply to Aboriginal people. Where I report data from other sources I retain the terminology employed by the original authors.
lowest educational attainments among immigrant groups, as well as the lowest capacity in an Official Language. Many arrive from rural areas after years of trauma, conflict, poverty, dislocation, and torture. The result may be several generations of family members who lack literacy and/or numeracy skills (Chuang 2009; Hyndman 2011). Other challenges are related to the integration of refugee youth into Canadian systems, such as the education system, to which I now turn.

Education

Schools play an important role in the settlement and integration of refugee youth, but staff struggle to meet the needs of all students in the context of increasing numbers of high-needs pupils at the same time that funding has been cut for English Language Learning (ELL), counselling, extracurricular activities, and creative subjects such as music and art, while class sizes have increased (BCTF 2015; BCTF 2010). Additionally, Canadian placement practices are based on age rather than ability; as a result, young refugees are sometimes placed in grades too high or low for them, which negatively affects the academic performance and psychological well-being of youth who may have already switched education systems at least once since leaving home, or who may have had their education interrupted by flight and several years in a refugee camp (Wilkinson et al 2014). At the same time, the Canadian education system assumes a significant amount of parent involvement, yet immigrant parents are often baffled by the school system and frustrated at being unable to support their children (Reitsma 2001; Chuang 2009).

Refugee youth who immigrate to Canada in their teens with little or no English and limited formal education may experience the following issues: frustration that they cannot meet BC graduation requirements within the expected time, social isolation, lack of knowledge about vocational training, post-traumatic stress disorder (PTSD), low self-esteem, violent nightmares, memories or flashbacks, irritability, hyper-alertness, impaired memory, fear, anger, anxiety, and vulnerability to violence and substance abuse (Edge et al 2014; Ministry of Education 2015). Berns-McGown (2013) found that children dealing with PTSD were frequently streamed into classes for slow learners or children with behavioural problems, which meant that they received neither psychological help nor adequate instruction. Exacerbating these concerns, many refugee youth also struggle to learn English.
Students who are required to take non-credit English language classes tend to have poorer academic outcomes and a higher than average dropout rate (Wilkinson et al 2014). Language difficulties can also undermine self-esteem, exacerbate educational differences, increase discrimination, and reduce employment opportunities (Khadka et al 2011; Ngo et al 2005; SPCO 2010).

In these contexts, school officials, settlement workers, and community leaders warn of a crisis among refugee youth who come to Canada as teenagers and leave the school system without achieving basic literacy and numeracy, leaving them with few mechanisms to understand and access opportunities for employment and, therefore, few resources to support themselves economically (ISS of BC 2009). This is precisely the situation for many of the youth who took part in this study. The risk of not obtaining a high school diploma varies with age at arrival, estimated to be about 15% for boys and 11% for girls who came to Canada before nine years of age. It increases every year past this age, reaching up to 25% for those arriving in Canada after the age of 13 (Corak 2011). School performance is among the best predictors of criminalization; literacy levels among the prison population are considerably lower than those of the general population (Ivanova 2011). These issues are discussed further in Chapter 7.

In addition to these issues, Galabuzi argues that some racialized youth experience social exclusion in the education system, which is a key institution for socialization because it produces and reproduces racist ideologies, attitudes, and structures of inequality, while curricula alienate racialized students by presenting their reality as inconsequential or invisible (2006, 191). As Mensah (2002, 43) points out,

A student of Canadian history can go right through our school system, university courses, and even graduate school without ever being exposed to the history of Blacks in Canada. Right from early elementary school, Canadian students are taught histories that dwell on an endless glorification of Whites, with few parenthetical references to Blacks and other visible minorities, overstating certain contributions while making others invisible.

In “Ghosts in the Multicultural Machine,” Yvonne Brown, a Canadian scholar of Jamaican origin, relates how multiculturalism and the myth of two founding nations conceal the brutal history of enslavement and colonization so that she feels like a “ghost made flesh, stalking the halls and classrooms of the academy to remind [students and colleagues] about those
repressed histories and their embodied presences” (2008, 9). She laments that teachers often ask her whether they should teach about slavery (14). Many Canadians believe that unless there is an intention to be racist, racism does not exist. However, Henry & Tator (2012) insist that racialized people know when they experience racism because it is repetitive and consistent with their past experiences, and non-Whites are commonly harassed and subjected to discriminatory practices in nearly all aspects of Canadian life (Codjoe 2005).15

Scholars have noted the prevalence of racism in Canadian classrooms (e.g. Creese et al 2011; George et al 2011). Many of the Somali youth in Berns-McGown’s (2013) study reported racist encounters with teachers at school that had a negative impact on their sense of self. The relative absence of teachers of colour, combined with educators’ attitudes and low expectations, negatively influence many racialized students, who drop out rather than participate in an alienating experience (Berns-McGown 2013; Galabuzi 2006). Accordingly, Berns-McGown (2013) argues that schools bear a large responsibility for the high dropout rate of Somali boys in particular. Despite these issues, “dropouts” are framed in the press in terms of individual deficiencies and deviance rather than structural features of society or institutional shortcomings of schools (Ellsworth & Stevenson 1994).

Racist incidents at school often take the form of bullying. The BC Ministry of Education admits that schools in BC face “a serious problem with bullying, harassment and intimidation” (2015, 1). Refugee youth in Khanlou et al’s (2009) study pointed out that boys (much more so than girls) are expected to respond with physical violence when bullied. Sometimes perpetrators go unpunished while African students are blamed for being overly sensitive or lacking in credibility (Adjibolosoo & Mensah 1998). If there is no significant response, those involved may believe that the behaviour is acceptable and victims may feel helpless (Ministry of Education 2008b). These issues are pertinent in the context of my findings in Chapters 5 (Erasure of Personal Histories) and 8 (Subjection to Violence).

15 Studies of race relations in Canada trace the roots of current racialized practices to colonialism, the dispossession of Aboriginal peoples, Orientalism, and the trans-Atlantic slave trade (e.g. Abdi 2005; McKittrick 2006; Mensah 2002; Razack 2008; Thobani 2007). Bashi (2004) traces the origins of contemporary anti-Black sentiment in immigration law and policy to the trade in enslaved Africans. McKittrick (2006) argues that violence and the history of slavery in which Black bodies were legally and culturally delineated as property, remain defining features of Black lives in Canada. Mensah notes, “Without a doubt, it is because of the legacy of slavery that Blacks are frequently treated with utter condescension and discriminated against in nearly all spheres of Canadian life...In a nutshell, the racism faced by Blacks today is an extension of the racism of the colonial era” (2002; 39).
Employment and Income Assistance

Refugee youth, almost all of whom are racialized, are also incorporated into the labour market in ways that reproduce racial inequality. The work they are able to attain is much more likely to be insecure, temporary, and poorly paid (Galabuzi 2006; Lauer et al 2012; Wilkinson 2008). Racialized men are 24% more likely to be unemployed than non-racialized men and earn 75.6 cents for every dollar that non-racialized men earn (Block & Galabuzi 2011). In a comparative study of the labour market experiences of immigrant, refugee, and Canadian-born youth aged 15-24, Wilkinson (2008) found that refugee youth experience the highest rate of unemployment, at nearly 30%. A study of GARs who arrived to BC between 2003 and 2005 found that 1-3 years later, 78% were unemployed, 66% of households had no employed residents, and 75% had no family member with a credit card (ISSofBC 2006). Consequences of under- and unemployment for youth include social exclusion, despair, alienation from families and communities, psychological problems, and increased contact with the criminal justice system (Khadka et al 2011; Yan et al 2012; Gunderson et al 2012). Street-involved and homeless young people, such as those who took part in my study, face additional challenges as few employers are willing to hire an individual without stable housing, previous employment experience or extensive formal education (Karabanow et al 2010; Lauger 2014). Although youth unemployment is high, society places pressure on youth to consume goods they may not be able to afford and there is a general cultural expectation that they are responsible for their own choices (Alvi 2012). This is the context into which refugee youth arrive.

In addition to young people who are unemployed, there are others who are “not employed or in education or training” (NEET) (Galarneau et al 2013). The probability of being NEET is significantly higher for people born outside Canada and for youth with less than a high school diploma (Marshall 2012). Furthermore, it is estimated that up to 100,000 young people aged 16-24 years old are homeless in Canada (RCY 2014, 23). Given these figures, Drewes (2011) concludes that there is a small sub-class of young people who have become permanently detached from the school system and labour market (Drewes 2011). My young research participants comprise a subset of this group.

As difficult as it is for refugee youth to find work, finding a job that provides a living wage is even harder. The incomes of members of the African population in Canada are below
those of the rest of the population by an average of $9,000 per year. For West Asians, the gap between their earnings and the general population was around $11,000 per year, with 48.7% living in poverty (Block & Galabuzi 2011). Inequalities in incomes among racialized and non-racialized workers are particularly deep among young men aged 16-24 (Galabuzi 2006, 203; Pendakur & Pendakur 2011). Racial segmentation in the labour market leads to differential access to housing and social services, health risks, contact with the criminal justice system, and political participation. In addition to being racialized, several of the participants in my study were persons with disabilities. In 2011, the employment rate of Canadians aged 25-64 with a disability was 49%, compared with 79% for Canadians without a disability (Turcotte 2014).

Given the importance of family for young refugees, it is notable that across Canada poverty rates for racialized families are higher than among non-racialized families. For example, Black families experience a poverty rate of 54%, while for Arab/West Asian families the rate is 32.5%. The corresponding figure for the general population is 16%. The rates for single people, such as my young research participants, were almost double these figures (Pendakur & Pendakur 2011). BC in particular has very high child poverty rates of almost 20%; child poverty is especially high among single-parent families, recent immigrants, people with disabilities, First Nations, and visible minorities (First Call 2012; Schissel 2011). Newcomer youth have a poverty rate of around five times that of the Canadian born (Kunz 2003; Shields et al 2006).

Compared with children in higher income households, children in low-income families experience more health problems, academic troubles, and behavioural issues. The school dropout rate for children living in low-income families is twice as high as for other children and carries lifelong implications for employment, income security, and involvement in the criminal justice system (Ivanova 2011). Relative to other children, those in low-income households consume less nutritious food, have less access to space for doing homework, are less likely to own computers, are more likely to have parents with little education, and greater face class-based discrimination from teachers (ISSo/BC 2009; Ivanova 2011; Kilbride & Anisef 2001; Marmot et al 2008). Berns-McGown (2013) found that living in marginalized neighbourhoods carries risks for the criminalization of Somali boys that would not have been present had their parents managed to find jobs and housing in other neighbourhoods.
It is commonly assumed that young newcomers can rely on family members for support. However, many refugee parents are also trapped in low-paying service jobs and lack the cultural and social capital needed to support their children’s education and employment (Chuang 2009; ISS of BC 2009; Yan et al 2012). In particular, relatively low numbers and the legacy of past discrimination mean that West Asian and African refugee youth do not enter well-developed social networks. In contrast, people from South and East Asia tend to come to Vancouver as Business, other Economic, or Family Class migrants and, as a result, are more often able to find employment, enter politics, start a business or achieve home ownership, thereby creating a network of landlords, employers, and politicians that can support newcomers (Hiebert et al 2008).

Given the challenges related to employment, access to social assistance becomes important. Social assistance rates are in BC extremely low and have not changed significantly since 2007. The annual rate for a single “employable” person is $7,778 while the corresponding amount for a person with a disability is $11,392 (British Columbia 2016). On top of this, social assistance is difficult to access in BC (Hiebert 2009). In the past, social assistance caseloads comprised mainly single parents, families down on their luck, single persons, and persons with disabilities. While these groups still make up the majority, there have been profound shifts, with young men emerging as a major public policy concern (Stapleton & Bednar 2011).

Personal Well-Being

Migrating to a new cultural environment places enormous strain on families as parents and youth confront new parenting styles, dating expectations, and relationships between youth and elders (Chuang 2009; Houle 2011; Hynie et al 2012; UOCS 2008). One coping mechanism is to lead dual lives whereby youth behave in one way at home with their parents and become a “different person” when with their peers (Okeke-Ihejirika & Spitzer 2005). Another strategy is to become homeless. Street-involved youth such as those I spoke with have often experienced dehumanizing experiences in group home and foster care systems, and arrive on the street out of desperation. Once on the street, many youth resort to risky or illegal activities to make money, find shelter and food, and defend themselves against violence and exploitation. These activities further marginalize youth and create
additional barriers including addictions, physical and mental illness, and criminal justice involvement (Karabanow et al 2010; RCY 2014).

Family separation and reunification after a long separation are also stressful (Chuang 2009; Salehi 2010; Wilson et al 2010). In Khanlou et al’s (2009) study, young refugees described the process of migration as one involving long periods of separation from family members, sometimes leading to family break-up. Children deeply felt the loss of parents left back home, especially in cases where they had been particularly close to the parent. Khanlou et al (2009) found that some youth turned to substance abuse as a coping mechanism, and in a few cases were in conflict with the law and at risk of deportation. I examine these issues in more detail in Chapter 6.

The Ministry of Children and Family Development (MCFD) serves as the provincial government agency responsible for youth in the criminal justice system and also children in care. Under-staffing at MCFD leaves social workers over-burdened and children in care under-protected even by the ministry’s own standards. Children and youth in care are four times more likely to die than other young people in BC (RCY 2015b). Since most children in care are racialized, the RCY (2015a) asserts that these conditions expose the face of institutionalized racism and a system that discounts the value of some children’s lives. Upon turning 19, young people “age out” of ministry programs; at that point they are considered adults and no longer eligible for protection under the Child, Family and Community Service Act. Aging out is another critical issue identified by my respondents as well as in reports from the RCY. The RCY (2014) notes that young people leaving care are less likely to graduate from high school, more likely to have mental health problems, become parents at an early age, experience unemployment, be involved in the criminal justice system, receive social assistance, experience homelessness, and have substance abuse issues. MCFD Practice Standards do not require social workers to observe the living circumstances of a child leaving care (RCY 2014). This analysis resonates with my findings presented in Chapter 7.

In addition to these issues, scholars have drawn attention to the difficulties of developing a strong sense of identity when familiar home, family, and community networks and institutions have been lost (Edge et al 2014; Khadka et al 2011; Ngo 2010). Older youth face the additional challenge of entering an environment where most of their peers have already established friendship circles. A lack of effective network hampers young people’s
participation in community activities and results in social exclusion, isolation, low self-esteem, depression, stress, confusion about their ethnic identity, and a general sense of feeling unwelcome in Canadian society. In light of these challenges, the literature has indicated significant concern regarding mental health issues (e.g. Correa-Velez et al 2010; Kumsa et al 2013; Salehi 2010; Shakya et al 2010). Some youth find a solution in negative behaviours. Gangs attract youth by offering a sense of belonging, power, and access to material goods that can be enticing for impoverished, isolated, and alienated youth (Chuang 2009; Wortley & Tanner 2008).

Persistent racism and discrimination from peers, authority figures, the media, and the general population also threaten the self-esteem of many young newcomers (Kumsa et al 2013). Numerous studies note that anti-Black racism and Islamophobia affect young people in negative ways (Galabuzi 2006; Ibrahim 2003; Manzo & Bailey 2005; Okeke-Ihejirika & Spitzer 2005; UOCS 2008; Warde 2013). Galabuzi argues that young people are routinely subjected to racist images and stereotypes in books, stories, toys, music, and mainstream media. All of these images deepen their perception of racial differences; for non-racialized youth, the images reinforce negative stereotypes about their racialized peers, while for racialized youth, the images influence their self-perception and social development (2006, 191). Again, these issues are evident in my study.

Given the challenges faced by refugee youth and their families, social service organisations play an important role in settlement outcomes. However, the objectives of most federal immigrant settlement programs are focused on adults, while provincial education systems have traditionally been assumed to support children and youth; consequently, scholars have identified an overall lack of targeted youth programming. Research from across Canada indicates that immigrant youth, especially those from small and marginalized communities, experience a consistent gap in service provision that contributes to further exclusion (Chua 2011; Chuang 2009; Francis & Yan 2016; Khadka et al 2011; Komeza 2007; Ngo 2009; Rossiter & Rossiter 2009a; Shields et al 2006). The result is a set of unmet needs for immigrant and refugee youth including: family and individual counselling, employment assistance, and basic needs such as food, shelter, and health care. I examine these issues in more detail in Chapters 5 and 7. Many young people need help to make sound decisions in adolescence but unfortunately cannot get help from family members or others.
they know; Ferdinand (2009) argues that to deny them assistance by abandoning the provision of programs in favour of incarceration is cruel and socially destructive.\(^{16}\)

### 3.3 The Canadian Criminal Justice System

#### 3.3.1 Overview\(^{17}\)

The criminal justice system in Canada comprises two sets of related systems based on the age of the accused (adult or youth) and political jurisdiction (federal or provincial). For the purposes of this study, one of the most important divisions is between the youth and adult systems. A related division is between the federal and provincial systems. In BC, youth criminal justice falls under provincial jurisdiction, while adults enter either the provincial or federal system depending on the length of the sentence associated with the crime they are accused of: sentences of less than two years become provincial jurisdiction while sentences of two years or more are a federal responsibility. The relevant federal agency for adults is the Correctional Services of Canada (CSC). Provincial agencies include Provincial Corrections (for adults aged 18 or older) or MCFD (for youth under the age of 18).\(^{18}\) Provincial Corrections operates nine adult facilities and one youth facility, the Burnaby Youth Custody Centre (BYCC). Sentences may include community sanctions (e.g. probation) and/or custodial sentences (imprisonment followed by probation). Probation is a period of time during which one is subject to a number of conditions (for typical youth and adult probation orders, see Appendices D and E). As with bail or parole, a breach of these conditions could result in incarceration.

Most people know that involvement with the justice system entails a criminal record. In fact, any police contact may form part of a criminal record, even where there was no conviction. The Canlaw website states, “Understand this: Police records and files on you will never be erased. Records of every contact with you, every complaint by a neighbour, arrest,

\(^{16}\) Current funding structures affect the ability of settlement agencies, youth organizations, and criminal justice service providers to assist youth by restricting program offerings while increasing staff work load. This is especially problematic for the youth service sector because it undermines the stability and consistency that youth-serving agencies require (Curren et al 2010).

\(^{17}\) The information in this section is drawn from conversations with criminal justice professionals, general information found on Justice BC and Provincial Court websites, and several years of personal experience as a volunteer in the court and custodial systems.

\(^{18}\) MCFD’s youth criminal justice services suffer from the same lack of funding, staffing, and support that cripple the provision of services for children in care (RCY 2015b).
charge, acquittal, stay, discharge, diversion and conviction are kept permanently by the police regardless of the outcome.” Another common misunderstanding is that youth records are automatically sealed; however, there are numerous reasons why they may remain open and become adult records. Discrimination (in employment, for example) based on the existence of a criminal record is permitted unless a Record Suspension has been obtained. The minimum waiting periods before eligibility to apply for a Record Suspension begins are five years after completion of sentence for a summary offense and 10 years for an indictable offense. Acceptance is not guaranteed, some offences are excluded from eligibility, a Record Suspension does not imply erasure of the record, and the processing fee recently increased from $50 to $631. On top of this, there is a two year backlog (CHRIO 2014; Parole Board of Canada 2016). In short, Record Suspensions are extremely difficult to obtain.

Criminal Justice Statistics

In BC, approximately 22,500 people are supervised under court orders in the community, while 2,500 are inmates in provincial correctional centres. Approximately 80% of admissions to adult correctional services are male, while the corresponding figure for youth is around 70% (Statistics Canada 2016a; Statistics Canada 2016b; Throness 2014). Around 8,000 young people aged 18-29 are admitted custody each year in BC, and around 10,000 are admitted to community programs (e.g. probation). Among young people under the age of 18, around 1,500 are admitted to custody and approximately 4,500 receive community sentences (Statistics Canada 2016b).

Young adults are over-represented in the criminal justice system with youth aged 12-24 accounting for 35% of individuals accused in police reported incidents. In 2013/14, young adults aged 18-35 accounted for 58% of admissions to provincial corrections and 53% of admissions to federal correctional services, while representing only 29% of the Canadian population (Allen & Supperle 2016; Statistics Canada 2015). Additionally, young adults aged 18-24 are charged with crime at the highest rates of any age group (Allen 2016). The criminal offences that young adults are most commonly charged for include theft under $5,000, common assault, cannabis possession, and mischief. Ten percent of incidents in which a youth was charged occurred at school during school hours (Allen 2016; Allen & Superle 2016).
Over a 10 year period, almost two-thirds of those who enter the correctional system will return at least once, and a quarter will return at least five times. Among adults, one-third of offences are “administration of justice” offences such as failing to appear in court when required or breaching probation conditions (Throness 2014). Almost one quarter of young adults accused of crime are accused in offences against the administration of justice (Allen & Sapperle 2016). In these contexts, some authors suggest that courts create the conditions for youth to commit administrative offences by imposing large numbers of difficult to follow conditions (Sprott & Myers 2011; Wacquant 2004). The large numbers of people incarcerated for breaching court orders is the major factor underlying the increasing rate of imprisonment in the context of a decreasing crime rate—hence the term “revolving door”\textsuperscript{19}. Through this process, imprisonment becomes a long term assignment from which individuals have little prospect of returning to unsupervised freedom (Garland 2001). Another factor in re-offence is that those who are released often have nowhere to go on release and lack social support, required medications, money, personal identification, a place to live or job prospects (Throness 2014).

From 2003 to 2013, the federally incarcerated population grew by 16.5%. All new net growth is the result of increases in Aboriginal and visible minority groups. The Aboriginal incarcerated population increased by 46.4% and visible minorities by 75%, while the proportion of Caucasian offenders decreased by 3% (OCI 2013). As a subgroup, Black inmates are the fastest growing sub-population in federal corrections, accounting for 9.8% of the total prison population while representing just 2.9% of the general population. Just under half of Black inmates are foreign-born (OCI 2013). Justice BC (2012) reports that as of March 2012, there were just under 500 incarcerated visible minority adult offenders of Black, Asian, Hispanic, or “Other” ethnicity. In addition, just over 4,500 are supervised in the community (e.g. on probation) a figure more or less in line with their proportion in the general population. However, those identifying as Black are significantly overrepresented. Based on data I received through an FOI request to MCFD, Black youth are significantly overrepresented in custody admissions and slightly overrepresented in community

\textsuperscript{19} At 140 per 100,000 population, Canada’s 2011 adult incarceration rate was 1% higher than in 2010 and 5% higher than in 2001 (Dauvergne 2012). Speaking about this issue, the Correctional Investigator stated, “The growth in the custody population appears to be policy, not crime driven. After all, crime rates are down while incarceration rates grow” (quoted in Brosnahan 2013).
admissions (see Appendix B). With respect to the immigration status of youth admissions over the past five years, a total of at least 214 youth with PR status received custodial sentences and 218 received community sentences (MCFD FOI data 2016) (For more information, see Appendix C). It is important to note that the FOI data I received report a large number of unknowns; as other researchers have noted, data on race and immigration status is not systematically collected (Chan & Chunn 2014; Millar & Owusu-Bempah 2011; Wortley & Tanner 2003; Wortley & Tanner 2005).

Conditions in Jails

Conditions in federal and provincial jails pose a number of problems including discrimination, over-use of force and segregation placements, violence, availability of illegal drugs, the lack of educational and rehabilitative programming, overcrowding, racism, and lack of attention to mental illness. According to OCI, all of these indicators are trending in the wrong direction (OCI 2013). In the provincial system, staff reported various reasons for the recent increase in violent incidents including overcrowding, gangs in correctional centres, mental health and addiction-related problems, and what correctional staff termed the “character of the new offender,” a young person who lacks respect for authority and is capable of engaging in irrational acts of serious violence apparently with little awareness or consideration of the consequences (Throness 2014).

On top of these concerns, cost-saving measures implemented in 2012 mean charging more for inmate telephone calls, an increase in room and board deductions, elimination of incentive pay for work in prison industries, cancellation of social events, and the closing of libraries. These changes hardened conditions that were already punitive rather than rehabilitative. Many inmates report that the expense of calling home from prison means that they rarely speak with family members and CSC does not permit the use of calling cards. Restricted contact with family and friends makes reintegration more difficult, particularly for people who face deportation upon completion of their sentence. Further, the termination of contracts with non-Christian prison chaplains is in opposition to the growing proportion of ethno-cultural prisoners (OCI 2013). Similar challenges exist in the provincial system (Throness 2014).

Regarding institutional programs, on a typical day less than 25% of federal offenders
inside institutions are enrolled in a correctional program to address identified criminogenic needs, and waiting lists for rehabilitation and anger management programs are lengthy. In 2012, over 70% of offenders were found to have unstable work histories, more than 70% had not completed high school, and more than 60% had no employment-related skill knowledge (Minister of Public Works 2007). Yet the completion rate for educational programs is only 31% and for vocational programs, 60% (OCI 2013). Failure to complete programs often means that access to early release is denied to people who could be supervised in the community. Many leave the correctional system without receiving treatment for the problems that got them into trouble in the first place (OCI 2013). These figures might surprise anybody who assumed that the objectives of incarceration include rehabilitation. Instead, according to Wacquant (2004), an important function of the penal sector is to enable the state to check the upheavals caused by social insecurity and polarization. Rehabilitation is pointless when an unstable economy cannot absorb those who might have reformed, leading to a focus on the utility of deterrence and incapacitation. These conditions have led some scholars to suggest that welfare and penal institutions comprise a single policy regime aimed at the governance of social marginality and the invisibilization of social problems (Beckett & Murakowa 2012; Christie 2000; Comack & Balfour 2004; Wacquant 2010).

With respect to visible minority inmates, OCI (2013) finds that those identifying as Black are consistently over-represented in administrative segregation and disproportionately involved in use-of-force incidents. Black inmates are 1.5 times more likely to be placed in maximum-security institutions where programming and social activities are limited and they are considerably less likely to be employed. Many Black inmates mentioned their concerns being ignored and felt as though they were governed by a “different set of rules” than other inmates. CSC staff confirmed that racial stereotypes are regularly employed by some personnel.20 Black inmates are twice as likely as the overall population to be deemed to have a gang affiliation and Black male inmates felt as though all their words and actions were viewed through a “gang lens” by CSC staff. The label impacts security classifications, work

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20 Other examples of discrimination are plentiful. For example, as part of the education program, inmates were required to read aloud excerpts from The Adventures of Huckleberry Finn, which is peppered with racist language. Some Black inmates were so derided by their classmates that they refused to return to the school yet were told by CSC staff, “It is just a book.” Such experiences exacerbate the marginalization, exclusion, and isolation felt by Black prisoners (OCI 2013, 11).
assignments, program enrollment, and conditional release eligibility (OCI 2013). It is notable that only 5% of CSC staff is from a visible minority group (Minister of Public Works 2007).

On top of these issues, police and corrections staff report that they are encountering increasing numbers of people suffering from mental health disorders they are not qualified to deal with (Thompson 2010). A recent study by Somers et al (2015) identified a subset of offenders with concurrent psychiatric disorders who interact extensively with health, social welfare, and justice sectors yet find themselves increasingly marginalized and continually re-criminalized; James and some of the youth who took part in this study fit into this category. According to the Schizophrenia Society of Ontario, “Having a mental illness and being a person of colour are factors that can increase the likelihood of criminal contact and conviction and subsequently make one a target for removal from Canada” (2010, 7). In 2008, it was conservatively estimated that 56% of the provincial corrections population suffer from a diagnosed mental illness (Throness 2014). However, no systematic effort is made to screen offenders for mental disorders at admission, or to follow up with treatment. Collaboration between Provincial Corrections and the Ministry of Health with regard to prisoner mental health is almost nonexistent (Throness 2014). According to CSC, approximately 80% of offenders arrive with a serious substance abuse concern, while 12% of male and 26% of female offenders are identified as having a very serious mental health issue (Minister of Public Works 2007). Despite this, nearly one-third of CSC’s psychologist staff positions are vacant or under-filled (OCI 2013). In other words, there is little attempt to address the needs of persons experiencing mental illness, which tends to worsen in prison (Somers et al 2015; Chan & Chunn 2014). OCI has also documented a number of other concerns with respect to CSC’s response to mental health issues including over-reliance on use of force, physical restraints, and segregation. The media and other sources contain numerous reports of long term (e.g. longer than one year) solitary confinement for people with mental illness, including for immigrants who have not committed a crime (OCI 2013; Paperny & Cain 2016; RCSC 2014; Silverman 2014).
3.3.2 Conceptualizing Criminal Justice
Theories and Models

Upon hearing the word “crime” many people likely think of an assault or a robbery. In fact, what is commonly called “crime” may not be the most dangerous or anti-social behaviour; the actions of corporations and the well-off are often not criminalized even when they present a serious threat to well-being, whereas the racialized, unemployed, mentally ill, and the poor, who commit crime in the streets, are perceived as dangerous. In the epigraph Chan & Chunn (2014) suggest that poor and racialized people are not only stigmatized as criminals but as the “enemy,” recalling the language of war that dehumanizes targets in order to justify violence against them (Kochi 2009). In fact, there is no direct way to measure crime (Berger & Gregory 2009). Although coverage of crime in the media overwhelmingly focuses on street crime, and “white-collar crime” is usually left out of crime statistics, most studies suggest that there is no relationship between social class and criminal activity and almost every person in Canada has committed some kind of (usually minor) delinquent or criminal act (Sprott & Doob 2008). Arguing that the question of who is charged with a crime is not only an empirical one, but a deeply political one, Chan and Chunn (2014) define criminalization as the process by which particular acts, behaviours, and individuals are selected, denoted as criminal, and differentially policed and punished; groups identified as particularly threatening include youth, refugees, migrants, Black and Muslim men, people with mental illness, and homeless people—in other words, the very categories of people who participated in this study.

Official data only reflect crimes that have come to the attention of the police and where charges have been laid. As a result, they reveal more about the activities of enforcement systems than actual crime levels (Grattet et al 2011). For example, the apparent increase in violent youth crime likely reflects a new zero-tolerance attitude by authority figures to behaviours such as fighting at school that were previously subject to informal resolution (Alvi 2012; Sprott & Doob 2009). Thus, in the current study, schoolyard dustups led to criminal charges for several of the young people I spoke with. In the US, this trend is known as the “school-to-prison pipeline” (Kim et al 2010). Given that involvement in the criminal justice system is a function of decisions made by adults, it is important to

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21 Victim surveys and self-report data suffer from additional limitations.
understand bias in police action and court decision making processes, of which there is significant evidence, as I show below. One result of the widespread fear of youth crime is that young people are delegitimized either as violent sociopaths or as brainless pleasure seekers, a process that Grossberg (2001) describes as a war against youth. An ideology of individual responsibility for well-being accompanies these processes, facilitating the blaming of youth for their own disadvantage, while the contraction of state welfare services means that it is “more efficient” to jail violent youth than rehabilitate them.

Numerous theories attempt to explain the causes of crime and people’s experiences in the criminal justice system. In broad terms, youth offending tends to be conceived of as the symptom of an underlying social, biological or psychological problem, as a symptom of an inadequate crime control system, or as a natural part of growing up. Theories based on these conceptions can be split into consensus/control theories that look for causes within individual offenders, and critical/labelling theories that focus on structural forces. The current study sits solidly in the latter category. For critical theorists, elements of the social structure such as the nuclear family or education system fail to address the needs of marginal people. Critical theories assume that the enforcement of laws is uneven and not based strictly on legal issues, but saturated by raced, gendered, and classed relations. Critical approaches assume that many people who have violated the law were not caught and therefore not stigmatized as criminal; thus what matters most is societal reactions to behaviour (Chan 2005; Doob & Cesaroni 2004; Garland 2001; Henry & Tator 2006; Maynard 2011; Schissel 2002; Wacquant 2010). Conversely, consensus theories focus on the failure of the individual or family to conform to social norms. The classical school of thought concerning criminal behaviour is that crime is committed through the exercise of free will to promote self-interest and that the best way to prevent crime is to punish offenders; the modern perspective on this includes assumptions about the exercise of rational choice in whether and where to commit crime (Shoemaker 2009). Building on these ideas, liberal consensus theories assume that middle-

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22 On the one hand, criminals are blamed for making choices and punished as rational offenders, on the other they are conceived of as irrational beasts requiring violence and control. Hartman addresses this contradiction in the context of slavery, arguing, “The slave was recognized as a reasoning subject, who possessed intent and rationality, solely in the context of criminal liability…The slave’s will was acknowledged only as it was prohibited or punished” (1996, 540). This historical finding continues to be relevant as the debate over punishment of dehumanized beings is frequently cast in terms of necessity rather than social justice (Comack & Balfour 2004; Razack 2008).
class morality and behaviour are natural and universal (Comack & Balfour 2004; Roberts & Mahtani 2010; Wacquant 2004).

Based on these varying understandings of criminal behaviour, criminologists describe two opposing perspectives on the impact of criminal justice processing on young people: from a deterrence standpoint, the more severe the punishment, the smaller the likelihood of further offences. Conversely, labelling theory focuses on the consequences of labeling a person as criminal or delinquent, suggesting that a young person’s self-concept tends to align with the way they are labeled, so that being labeled an offender makes criminal behaviour more likely. This could be because the underlying causes remain, due to acceptance of the label, or due to increased surveillance and likelihood of being stopped by police because one “fits a description” (Maynard 2011). Another concern is that the development of relationships in prison may encourage criminality on the outside. In general, research demonstrates that prison sentences do not reduce reoffending and may actually increase its likelihood (Apel & Sweeten 2010; Corrado et al 2006; Cullen et al 2011; Hipp et al 2010; Kupchick 2006; McGrath & Weatherburn 2012; Mulvey et al 2010; Shoemaker 2009; Weatherburn 2010).

Research reveals a number of serious effects of incarceration on youth. Studies show that custody ranks among the most traumatic lifetime events and for many young people is the first time they have spent apart from family, friends, and home (Alvi 2012; Shoemaker 2009). Moreover, multiple forms of disadvantage and vulnerability are prevalent among incarcerated youth, including mental illness and learning disabilities; the traumatic experience of prison is exacerbated for these youth as well as for those who must live with them. Furthermore, bullying by fellow inmates or officials, use of physical restraints, and placement in isolation are common in prison, yet an “adolescent code” makes it difficult for youth to reveal concerns about their safety, while the “con code” inhibits prisoners from asking for help for fear of being punished by inmates (Doob & Cesaroni 2004). Incarceration also has negative effects on developmental processes because youth are not involved with a stable group of people and do not have responsibility for day-to-day tasks such as cooking and doing laundry. Incarcerated youth are more likely to drop out of school or have interrupted schooling; in conjunction with a criminal record, this can have long term consequences for employment. Another negative implication of incarceration is that
underlying issues, such as the lack of programs to assist youth with psychological or material needs, indifferent education systems, inadequate social welfare provision, unemployment, homelessness, patriarchy, poverty, and racism remain unaddressed (Alvi 2012; Doob & Cesaroni 2004; McGrath & Weatherburn 2012; Schissel 2011; Weatherburn 2010). All of these conditions are likely to be exacerbated for refugee youth who have a traumatic past and are also new to Canada, as I discuss in Chapter 7.

Depending on the theoretical framework applied, different models of youth justice follow. Ideal juvenile justice models base sentencing outcomes on the characteristics of the offender rather than on the offence and the goals are to rehabilitate rather than punish, denounce or deter. Currently, however, the trend is to impose adult sentences on the most serious offenders (Doob & Cesaroni 2004; Mangat 2014). The Youth Criminal Justice Act (YCJA) passed in 2003 incorporates contradictory policies including accountability, retribution, harsh penalties for the most serious offences, and punishment/deterrence, as well as rights and rehabilitation (Doob & Cesaroni 2004; Sprott & Doob 2009). Denov (2004) investigated the YCJA’s compliance with the UN Convention on the Rights of the Child (CRC) and identified several noncompliance concerns, including: emphasis on punishment, adult sentences for young offenders, regional variation, limitations on children’s right to privacy, and lack of consideration of socioeconomic disadvantage. Her research also points out that the principle of the “best interest of the child” is not included as a guiding principle in the Act’s preamble, whereas “accountability” is mentioned twice. The Quebec Court of Appeal has stated that certain provisions of the YCJA pertaining to adult sentences violate a young person’s rights under the Charter of Rights and Freedoms (CRF). The federal government has neither appealed the ruling nor addressed the issue of adult sentences (Corrado 2010; Corrado et al 2007).

Underpinning the emphasis on young people’s accountability and the extension of due process rights is the presumption that young people are aware they possess specific rights and understand their meaning. However, most studies, including the current one, show that young people also do not understand criminal justice procedures; although they may understand in a literal sense what they are doing, they do not tend to know what a “right” is and often waive their rights without comprehending the implications (Denov 2004; Doob &
Refugee youth who struggle with English and literacy are even less likely to have access to Canadian legal resources or information.

Racism and Risk

The prevalence of racism in the criminal justice system, particularly against Black and Aboriginal people, has been conclusively established and there is overwhelming evidence that poor and racialized youth are significantly overrepresented at all stages of youth justice processing including detention, arrest, charge, conviction, and incarceration (Alvi 2012; Chan & Chunn 2014; Fitzgerald & Carrington 2011; Galabuzi 2006; Kuehn & Corrado 2011; Maynard 2011). Police draw on racialized categories that are already embedded in society and their interventions enforce social prejudices and inequalities (Forcense 2000; Murdocca 2004). The effects on racialized communities of over-incarceration and constant surveillance through racial profiling are significant. They include physical and psychological harm (in some cases death), isolation, alienation, distrust, impairment of family and social networks, and labour market exclusion (Jiwani 2011; Sprott & Doob 2014; Tator & Henry 2006). Accordingly, Tanovich argues, “In many ways, colonialism, slavery and segregation are now reproduced through the modern day systems of control and incapacitation” (2008, 661). Henry & Tator (2006) reject the suggestion that racism within law enforcement is limited to the actions of a few “bad apples;” coded in such discourse is the liberal colour-blind denial of racism as a set of institutional practices and behaviours that reinforce systemic racist outcomes.

Tanovich (2008) suggests in the epigraph that racialization is also profoundly enmeshed in legal practice, for example, as discussed in Chapter 2, the legal premise of the “objective standard of reasonableness” invites lawyers and judges to fall back on culture, race, class, and gender stereotypes (Comack & Balfour 2004, 99). Hudson (2008) argues that the subjectivity of the “reasonable person” on which modern justice institutions are based is synonymous with the subjectivity of the White, adult, man of property. This figure in turn relies on the humanist supposition of a separation of humans from nature. Thus, while the laws and policies that underpin racialized disadvantage do not employ overtly racist (or humanist) language, they nevertheless create and sustain racist (and humanist) ideologies and structures. In these ways, the law plays a large part in constructing low-income youth as
dangerous and in upholding the myth of the young working class Black male as inherently deviant (Chan & Chunn 2014; Mawani & Sealy 2010; Thornhill 2008). As Thobani (2007) indicates in the opening quote, the Canadian legal system is a regime of racial power concealed by the language of fairness, rationality, equal treatment, and neutrality that is frequently deployed to expel racialized bodies from personhood.

Building on these ideas, Henry & Tator (2006) explore the ways in which the Black male body becomes culturally marked as a deviant, dangerous, and undesirable alien Other that threatens the moral and social order. They suggest that in order to be preventative, surveillance must be able to detect the anomalous or the criminal by visible category rather than behaviour; since Whiteness is normalized, it follows that non-Whiteness is abnormal. The White perception that Blacks are dangerously at variance with White-defined social norms leads to an acceptance of racial profiling whereby Blackness becomes a visible emblem of danger (Warde 2013).

These processes are spurred by an actuarial approach to crime and risk aimed at managing aggregates of dangerous populations more economically by quantifying and assessing the risk that offenders pose (Comack & Balfour 2004; O’Malley 2004; Pate 2002; Simon 1988). Canadian judges frequently rely on actuarial risk assessments in sentencing and correctional authorities depend on them to render decisions on institutional placement, security classification, programming availability, and conditional release eligibility and conditions (Hanna-Moffat 2013; Hanna-Moffat et al 2009). Although risk assessments are presented as objective and scientific, instruments are developed using samples of White, male, adult offenders and involve morally laden assessments of an offender’s behaviour and attitude in term of White middle-class heterosexual morality (Hanna-Moffat et al 2009, 402). There is evidence that risk assessment tools discriminate against youth, members of minority groups, and people with disabilities, who are more likely to be categorized as high-risk (Balluci 2008; Hanna-Moffat 2013; Hanna-Moffat et al 2009, 403; Zinger 2004). Risk assessment tools inscribe social inequalities (such as unemployment) as risk, while structural relations are ignored or constructed as individual inadequacies (Hannah-Moffat 2012; Hanna-Moffat et al 2009; Kemshall 2002, 48). Furthermore, risks/needs are defined not as entitlements to resources, but as criminogenic, that is, statistically correlated with recidivism. Consequently, poverty, homelessness, poor health, and depression are low priorities for
intervention as, unlike anger, they are not directly linked to offending (Hannah-Moffat & Maurutto 2003).

3.3.3 Crimmigration

The discriminatory application of police, judicial, and penal practices to persons of non-European phenotype results in the criminalization of immigrants, produces the phenomenon it is supposed to address, and serves to connect immigration with criminality and illegality so that the racialized male immigrant becomes the predominant figure of fear for criminal justice and immigration authorities (Chan 2005, 162; Sayad 2004). For example, Diane Francis argues that Canadian cities with high levels of immigration have higher rates of violent crime. “How many lives,” she asks, “are ruined as a result of violence by outsiders? Pockets picked? Seniors shaken down? Teens hooked on heroin? Women raped? Children unsupported by deadbeat dads? Banks robbed, and companies or governments defrauded?” (2002, 176). Representing Others as prone to violence, and as criminals, outsiders, inassimilable, and undeserving aliens sustains an image of the nation as a peaceful idyll tainted only by the importation of Others’ deviance and can serve as justification for curtailing the rights of those groups (Jiwani 2011; Provine & Doty 2011). Aas (2011) suggests that the discursive coupling of migration and crime generates and maintains the social exclusion of an illegalized global underclass. While the primary distinction is between citizens and non-citizens, there are also gradations of citizenship such that “the citizenship of some groups is irregular or flawed” (Aas 2011, 339).

The commission of crime by immigrants has been conceptualized in policy debates as segmented assimilation, a theory which suggests that young immigrants of colour in poor neighbourhoods adopt the delinquent subculture of marginalized native-born youth to cope with their own difficult situation (Portes et al. 2005). For example, Canadian studies have shown that some marginalized young immigrants join gangs because they are bullied or assaulted by other youth and disenfranchised by wider society (Asagwara 2005; Rossiter & Rossiter 2009b). These ideas resonate with my findings and I support the authors’ calls for enhanced service provision to immigrant and refugee youth. Segmented assimilation theory takes crime and punishment as given, and has as its goal the reduction of criminal activity among youth. However, critiques of the theory suggest that what differs between Whites and
the racialized immigrant youth is not delinquent behaviour but how the larger society reacts to it; specifically, the latter are more likely to be ensnared in the justice system (Stepick & Stepick 2010).

With respect to the intersection of immigration and criminal law in Canada generally, and in the current study in particular, it is important to bear in mind four overlapping processes: the proportion of visible minorities in the criminal justice is going up, criminal sanctions are increasing, grounds for loss of PR status and for deportation are expanding, and rules for citizenship acquisition, which is conditional upon conduct, are tightening. In 1994, the Canadian government implemented the “criminals first” policy of removals and criminality is one of the most frequently used provisions for deporting non-citizens from Canada (CBSA 2010; Pratt 2005, 161). In 2014, the Removal of Serious Foreign Criminals Act further eased the removal of “foreign criminals” who commit “serious”23 crimes in Canada by making all foreign nationals (TRs), and some PRs sentenced to more than six months for a serious crime in Canada ineligible for a Record Suspension, fostering the issuance of removal orders, and revoking Protected Person status as a result of a danger opinion decision (Public Safety Canada 2015). Issuance of a “danger opinion,” whereby an individual is deemed a “danger to the public,” allows the Canada Border Services Agency (CBSA) to remove individuals deemed a danger to Canada, including refugees (CBSA 2015). Barnes (2009) argues that the Danger to the Public provision is an example of the influence of the logic of criminality leaking into immigration enforcement, a process and outcome which some scholars refer to as “crimmigration.”24

Pratt (2005) finds that the effects of racial profiling are not addressed by deportation legislation. Black male residents who are not Canadian citizens are particularly vulnerable to being designated as dangerous and as such, deported without appeal. Chan (2005) argues that

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23 Under IRPA, the standard for “serious criminality” is whether the potential penalty for an offence is 10 years or more, regardless of the sentence imposed. Further, an offence that may be prosecuted either summarily or by way of indictment is deemed to be an indictable offence. Also, a determination of whether a PR has committed an offence (e.g. in the case of an acquittal) is on a balance of probabilities (rather than reasonable doubt, as in criminal cases). On top of this, access to the Immigration Appeal Division to appeal a deportation order is denied (i.e. deportation is automatic) following a term of imprisonment of six months or more.

24 Most of the crimmigration literature focuses on asylum, which some scholars argue has been redefined to connote criminality and deviousness as part of a trend to link immigration to crime and terrorism (e.g. Aliveri 2012; Barker 2012; Bosworth 2012). For example, when asked in an interview about the government’s stance against wearing the niqab during citizenship ceremonies, the Canadian Immigration Minister replied, “[Canadians] don’t want their co-citizens to be terrorists” (Ling 2015).
definitions of undesirable immigrants are highly racialized, and thus deportation hearings function as a mechanism of moral regulation for differentiating between deserving and undeserving immigrants. In a system designed to define those who may move freely, and to restrain and expel those who may not, matters of identity and penal power play central parts (Bosworth 2012). According to Chan and Chunn, “Contemporary immigration enforcement is very much a ‘racial project’ that combines overtly race-based hostilities with a set of institutional practices (such as criminalization, confinement, and the denial of basic services) to produce an ‘immigrant other’ that is perceived as threatening” (2014, 146). The convergence of immigration and criminal law combines the harshest elements of each, as the state expels those marked as criminally alien (Miller 2005; Stumpf 2006). Given the underlying humanist foundations of race, citizenship, and national belonging, I suggest that immigration enforcement based on criminality is also a vehicle for dehumanization and part of a performance that produces the (deserving) human and (undeserving) sub-human figures.

Canada deports people daily to parts of the world that it advises its citizens to avoid. For example, a CBC documentary on Canadian deportations to Somalia features several disturbing and terrifying deportation narratives, including instances of CBSA agents dropping young Somali men off at the deserted border between Kenya and Somalia and directing them to walk across on their own because planes will not land in Somalia and it is too dangerous for Canadian officials to enter (CBC 2014). Although not all youth who could be deported from Canada are actually removed, their PR status may be revoked, with negative consequences for almost every aspect of life. Hasselberg (2014) finds that deportability becomes embedded in migrants’ daily existence and stains their lives with chronic anxiety. Other possible immigration effects of a criminal record include denial or withholding of PR status, restrictions on international travel, ineligibility to sponsor family members, and ineligibility for citizenship (Edelman 2013; Pardons Canada 2016).

3.4 Conclusion

Humanist systems of inequality are exacerbated by the mark of a criminal record as the criminal justice system defines those who are dangerous, then stigmatizes, dehumanizes, and excludes them. Consequently, the police, courts, and prisons are not only technical apparatuses through which authorities respond to crime, but a mechanism through which the
state produces and manages marginality within the broader humanist context. The production of marginalization, which relies on race, class, refugeehood, and so on, inspires the performance of two opposing figures: the animalized criminal alien, and the humanized, innocent, and deserving citizen subject. Before taking up these themes in the context of my empirical discussion, the next chapter describes the youth and professional stakeholders who took part in this study and explains how, in methodological terms, I applied the concepts of dehumanization and performativity to the experiences of the young criminalized refugees I spoke with.
Chapter 4. Methodology: Policy, Performance, Posthumanism

“The challenge [of conducting research] is how to start from a place of entanglement or how to replace epistemologies that enact hierarchy and distance with those that assume interdependency and entanglement in asymmetrical conditions...[Achieving this aim] means questioning the epistemological practices through which knowledge is produced and legitimated...Who counts as a legitimate producer of knowledge and why? How do we position ourselves in relation to the objects of research? ...What kind of world would we like to be involved in enacting?” (Sundberg 2015).

“The juridical structures of language and politics constitute the field of power so there is no position outside this field; the task is to formulate within this constituted frame a critique of the categories of identity that contemporary juridical structures engender, naturalise and immobilise” (Butler 1990, 5).

“Those who would sharply separate policy analysis from fundamental social values make a grave mistake” (Cochran 2009, 8).

4.1 Introduction and Rationale

Methodology refers to the rationale and philosophical assumptions that underlie research together with the methods used; this chapter describes how I conducted the research and why I did it that way. As Smith emphasizes, “Research is not an innocent or distant academic exercise, but an activity that has something at stake and that occurs in a set of political and social conditions” (2012, 5). One of my objectives in undertaking this study was to learn what subalternized stories can reveal about the material and discursive means through which Canadian society is organized. Following Sundberg (2015) in the quote above, critical analysis pays attention to issues of knowledge and power, especially how particular knowledges and understandings of the world are marginalized while others become accepted as universal truths. As the literature reviewed in Chapter 2 highlighted, in humanist terms, only humans are taken seriously and get to be heard; the closer one is to the “animal,” the less one matters. Butler (2004) advises that one means of achieving hegemonic political understanding is through circumscribing the admissibility of certain knowledge into the public sphere. Although marginalized narratives tend not to form part of policy considerations, young refugee’s stories represent situated embodied knowledge critical to opening up the categories that underpin policy-making and have consequences for how “refugee youth” are positioned in relation to social and material resources (Dyck & McLaren
Therefore, privileging the voices of subaltern groups has the potential to affect power relations.

Counter stories complicate understandings of “truth” by challenging normalized Eurocentric assumptions of racial and gender neutrality (Atwood & Lopez 2014). Such are the stories that the criminalised refugee youth who took part in this study shared with me. Understanding how race, class, gender, and other forms of domination play out in young people’s lives requires an exploration of the human and animal figures that provide their conceptual foundation. However, rather than seeking to revise humanism by expanding it to include currently excluded bodies, my objective is expose the core of the humanist narrative and excavate it by taking seriously non-dominant frameworks that we can use to change our perspectives. In other words, as Butler (1990) suggests in the opening quote, my aim is to critique the categories of identity produced through socio-legal institutions (i.e. race, class, gender, age, ability, criminality, refugee, species).

Why Focus on Refugee Youth in the Criminal Justice System?

Critical scholars urge researchers to develop an understanding of the underlying assumptions, motivations, and values informing their research practice. For Sundberg (2015), ethical behaviour obliges us to acknowledge the who, what, when, where, why, and how of our research agenda and social practices. Along the same lines, a youth settlement worker in the current study told me, “In any relationship you have to remove the expectations that are based on selfish needs and desires...and then examine why you want to work with ‘x’ group of people—is that your complex coming into play? Is it because it’s sexy?” With these cautions in mind, I outline below the rationale for undertaking a study of institutional humanism with criminalized refugee youth.

Mountz (2010) insists that those who are alienated, expelled or contained, such as incarcerated people and the homeless, are well positioned to tell the story of the state because the view from the political periphery illuminates practices at the centre. I am not aware of previous scholarship involving interviews with refugee youth who are involved in the Canadian criminal justice system. In line with Mountz’s ideas, and to partially address this gap, my research represents a preliminary attempt to understand young refugees’ experiences from a theoretical perspective. I propose that while their numbers may be small in absolute
terms, criminalized refugee youth play an essential role in institutional performances grounded in human(culture) / animal(nature) dualisms. The humanity of children, refugees, criminals, persons with disability, and racialized persons, especially Africans and Muslims, has frequently been questioned (e.g. Canton 2010; Cornell 2016; Eze 1999; Kaplan 1996; Kincaid 1998; Mawani & Sealy 2010; Naffine 2011; Naffine 2012; Olsen 2014; Said 1979). Focusing my analysis on criminalized, racialized refugee youth therefore permits me to examine experiences of dehumanization on many levels (race, class, gender, age, ability, criminality, refugeehood). At the same time, the focus on criminalized refugees facilitates study of the intersection of several institutional systems (immigration, criminal justice, education, social welfare) simultaneously, thereby providing a multifaceted view of the operation of “state humanism” in Canadian institutions.

In my analysis I heed Chan and Chunn’s (2014) assertion that it is the state rather than racialized people who need to be confronted about their behaviour. Since young people labour under numerous systems of adult control (e.g. by teachers, parents, social workers, employers, and so forth), it seems unfair and inaccurate to seek explanations for their circumstances in the behaviour of individual youth rather than in the systems into which they have been inserted by authoritative adults. I interviewed youth who were aged at least 18; at that age, young people are emerging from those systems of control. Given that adults had so much power over young people’s lives until then, the situation that youth find themselves in as they “come of age” illuminates adult decision making processes, including the institutional policies that I argue perform humanization and animalization. I did not interview young people under the age of 18 in order to include only adults who are independent of state child protection services, parents, and schools, but still widely considered “youth.” In this context, it is worth noting that I view the age of criminal responsibility as a political question rather than a biological imperative in that there is no major change that inevitably takes place in all young people at the moment that they turn 12 or 19 that would “naturally” call for criminal justice processing of incidents which one day earlier would have been dealt with differently (Alvi 2012; Schissel 2011; Sprott & Doob 2004). Furthermore, it is important to understand the experiences of young refugees because children and young adults make up a large portion of GAR arrivals (see Chapter 3). As newcomers and young people of colour, they are marginalized in the labour market. Youth are also the focus of crime prevention efforts,
blamed for most crime, and disproportionately criminalized (Allen 2016; Alvi 2012; Sprott & Doob 2008). These conditions call for explanation.

A number of critical approaches have been taken in the study of marginalization in the lives of immigrant youth. For example, the strain model explains criminal behaviour by suggesting that certain conditions, especially poverty and residence in disadvantaged neighbourhoods, create strain in the integration process that leads young people into crime (e.g. ISSof/BC 2010b; Ngo 2010; Rossiter & Rossiter 2009b). However, I sought not to explain criminal behaviour, but criminalization and dehumanization, and the underlying logics of institutions and policies that produce criminalized identities. To achieve this, I apply a posthumanist theory of performativity (described below) to the experiences of criminalized refugee youth in order to investigate the ways in which liberal humanism is operationalized via institutional policies and processes that select bodies deemed animalistic on the basis of their race, class, age, gender, ability, and refugeehood, and treat them accordingly (i.e. as animals). Although some research has investigated the humanist underpinnings of the criminal justice and immigration systems (e.g. Hyndman 1998; Olsen 2014), none has looked specifically at the role played by the figure of the human in dehumanizing processes. It is within these contexts that I attempt to track the production of humanist figures and exclusions in institutional policy performances.

4.2 Data Collection
Permissions

In addition to obtaining approval from the BREB (see Preface), this study also received ethics approval from PLEA Community Services Society of BC on December 18, 2013. According to their website, “PLEA delivers comprehensive residential and non-residential services in the community, working with the youth justice, child welfare, addictions, health and community living systems...Our programs adhere to the requirements of the Youth Criminal Justice Act and support the safe rehabilitation of the young people while minimizing the use of custody” (PLEA 2016). Three of the youth I spoke with were referred to me by PLEA.

I submitted an extensive application to Provincial Corrections requesting permission to conduct research with correctional employees, clients, and/or data. The application was
denied. While in theory this meant that I could not interview people in custody, or who work for Provincial Corrections, or post my recruitment materials at Provincial Corrections sites (such as probation officers or custody centers), I was able to achieve these objectives in a limited way by obtaining permissions from individual staff members, including to interview offenders in custody (although ultimately none agreed to speak to me). The denial of permission had the effect of restricting my study to “sympathetic” correctional employees who were willing to speak to me in their “free time.” Additionally, it meant that I was not able to recruit young adults through correctional channels. Given that there is no publically available list of potential interviewees, the rejection had the overall effect of inhibiting my recruitment capacity.

Advisory Committee

At the outset of the study I formed a community-based advisory committee to guide the research and to ensure that the results would be useful for people working on the ground. The committee comprised representation from: immigrant serving agencies (ISA), law enforcement, corrections, a lawyer specializing in immigration and criminal law, a criminal justice non-governmental organization (NGO), Settlement Workers in Schools (SWIS) program, and a Somali community leader whose son was involved in the criminal justice system. The Advisory Committee met on October 30, 2013 at Immigrant Services Society of BC (ISSoBC). Dan Hiebert, my academic supervisor, also attended the meeting. I provided committee members with the proposed project overview and timelines and we discussed recruitment methods and the plan for interviews and focus groups. Committee members were extremely supportive of the project. We kept in touch over the following two years with members providing advice on questions relevant to their area of expertise. I will present my findings to the committee at the Community Forum in spring 2017 (see below).

Archived Data

A literature review of primary and secondary sources provided an overview of the immigration and settlement of refugee youth and families, as well as of criminal justice processes pertaining to refugees and minorities in Canada. In addition to academic material on social inequality, criminal justice, youth, refugee settlement, humanism, animal studies,
and policy analysis, other sources included government studies, NGO reports, statistical databases, policy briefs, legislation and regulations, media reports, and IRCC, CSC, and provincial ministerial records obtained through FOI requests. These archived sources provided context and established patterns, deepening my analysis of interview material.

One question that frequently arose in interviews was, “Exactly how many refugee youth are in the criminal justice system?” This is a difficult question to answer for at least two reasons. First, because involvement in the criminal justice system does not tend to be a onetime occurrence; as I demonstrate later, one charge can entail involvement over many years. The second challenge concerns access to statistical data held by CBSA. As the Office of the Information Commissioner (OIC) and others have noted, the FOI and Access to Information and Privacy (ATIP) systems are antiquated and frequently inaccessible (CBC 2013; OIC 2013; OIC 2014; Proctor 2015). Totten & Kelly (2005) reported that gaining access to prisoner records was easier in the provincial versus the federal justice system. Correspondingly, my FOI request to MCFD resulted in the provision of some information, while my repeated requests to CBSA were never processed and after two years I filed a complaint with the Privacy Commissioner (at the time of writing I am awaiting the results of the ongoing investigation). The challenges of accessing statistical data were extreme.

Recruitment of Interviewees

Interviewees were located through networks I had developed over several years of community involvement, including connections to local ISAs, criminal justice professionals, and community groups. For example, I volunteered for several years at BYCC and Downtown Community Court (DCC) with the Elizabeth Fry Society, which primarily serves women and girls involved in the criminal justice system. I also volunteered briefly for the John Howard Society, which provides services mainly to men and boys in the justice system. Additionally, I have extensive networks in the immigrant settlement sector developed through previous research, volunteer work, employment, and activism. Access was facilitated through relationships developed through those networks and (as there is no available list from which to select participants) interviewees were selected using a snowball sampling technique incorporating multiple points of entry. Given the limitations of data access, I could not expect my sample to be statistically representative of the refugee youth population in the
criminal justice system; therefore, my objective was to interview a broad range of
participants to understand the breadth of their experiences, to reveal patterns and identify
particular groups whose needs are not adequately met under the current system, and to offer
an analysis of how the present situation arose.

For the most part, the contact information of criminal justice employees is not
publically available and representatives of most criminal justice agencies, whether NGO or
government, became suspicious and defensive when I described my project and requested an
interview. It was an intimidating process. I found it particularly difficult to arrange
interviews with employees of CSC, CBSA, and Provincial Corrections. However, I was able
to speak with several people who had either recently worked for these agencies or who
agreed to speak to me without going through formal approval channels ("on their own time").
I tried unsuccessfully for two years to arrange an interview with a CBSA representative.
However, I was able to interview a former agent who told me, “A lot of people…are afraid—
because of the tyranny. We call it ‘beaten dog syndrome,’ where if you’ve been around for a
lot of years, things happen and instead of standing up to fight, you go cower in the corner:
‘I’m not going to fight that because it’s not worth it.’” In other words, CBSA staff members
are unwilling to be interviewed for fear that something they say might entail negative
consequences for them later. Many interviewees confirmed that the justice system is a closed
environment that is difficult for outsiders to access, and research also backs this up (e.g.
Totten 2001; Totten & Kelly 2005; Wortley & Tanner 2008).

The recruitment of youth proved even more difficult. Most agencies informed me that
they do not know whether they have any immigrants or refugees on their case load, and that
in any case they treat everybody in the same way and therefore there is no reason for me to
speak with them. Even where staff were willing to provide assistance, it is not easy to make
or maintain contact with youth who are homeless, in and out of jail, aging out of programs,
who do not have a phone, who are living in temporary safe houses, and who are often
disconnected from parents. In effect, the young people I spoke with have few ongoing
relationships. In addition, the $40 honorarium I offered proved insufficient to overcome the
shame and fear that accompany the combination of refugee status and a criminal record. It
also became clear as the study progressed that $40 in return for speaking about one’s life to
an unknown adult is unattractive if one is making a living by selling drugs (for which the pay is much better).

Interviews

I held interviews with 42 professional stakeholders who work with immigrant or refugee youth involved in the criminal justice system, including settlement and youth workers, police and POs, and legal service providers. The semi-structured individual interviews were intended to learn about the challenges young criminalized refugees face and available resources, and to obtain stakeholders’ advice concerning the design of the subsequent interviews with youth. I held individual interviews with professional stakeholders for confidentiality reasons and to simplify scheduling. However, I was open to holding group interviews and there were three of these involving a total of 12 people.

I also conducted individual interviews with 12 young men aged 18-30 (and one person who was 39 but who had entered the criminal justice system as a young adult). Once again, I considered that young people might not be willing to share their experiences among a group of people with whom they are not familiar, but I was open to interviewing people together if they wished, and this occurred with Hamdi and Ashraf.

I had hoped to interview parents, but for the most part parents were not closely involved in these young people’s lives. However, I interviewed one father (Nasim), which was very helpful because his son (Issa) was the one youth who did not permit me to record the interview and he spoke little during our time together. Suspecting that his son might not be forthcoming with me, Nasim had intended that I interview him first, but he was exhausted after working a late shift and ended up having a nap instead (I interviewed them in their home), which meant that I interviewed Issa first. I later learned that Nasim thought that I had come to support him against his son, as it were. As a result, Issa may have felt that I was already against him and therefore been reluctant to share incriminating information with me.

Interviews lasted from one to three hours (for interview schedules, see Appendices F and G), and were semi-structured, with questions grouped into themes around the challenges that young refugees face in the criminal justice system and in their settlement process generally, the strategies they used to cope with those challenges, and any assistance they received. The interview schedule was not followed precisely, but used as a guide so that
throughout the course of the conversation, answers to all of the questions were obtained. Each refugee youth interviewed received a $40 honorarium. I also brought a package of food (e.g. a Subway sandwich and juice) to all of the youth interviews, and this appeared to be gratefully appreciated.

Interviews with youth took place in local parks, at a public library, at participants’ homes, and at agencies where they received services and felt comfortable. Interviews with young people took place in Vancouver apart from Fayyad (Richmond) and Issa (Surrey). The interviews with professional stakeholders occurred at their places of work in Vancouver, Surrey, Burnaby, and Richmond. All the interviews except two (Issa and Pascaline) were audio recorded. In those cases, I took notes by hand during the interview. Interviews were conducted in English with interpretation available for participants who required it (however, nobody requested interpretation). Approximately six months after the first interviews, I attempted to conduct follow-up interviews with the youth I had spoken with. The challenges I faced further underscore the marginalization of these young people. In most cases, youth workers had already lost contact with people they had connected me with a few months earlier; the few youth who had cell phones did not have the same number. My emails received no response. Consequently, apart from three exceptions (Ashraf, Hamdi, and Dani) I was unable to conduct follow up interviews.

Matters of Positionality and Reflexivity

Given the race, class, age, and legal status power differentials that obviously exist between me and the young people I interviewed, the issue of “trust” is a crucial one, especially in the context of the criminal justice system where trust is often lacking. In this regard, having a personal introduction, either from an organization, a trusted case worker, friend or other participant was extremely helpful. Further, during the interview I made my political views known by expressing awareness of my privilege as a White, employed, university-educated, citizen-settler, and by acknowledging my complicity in the perpetuation of exploitative neocolonial relations, including in the production of refugees. Furthermore, I also have a fairly extensive criminal past, I have also struggled with (and overcome) an addiction, and I come from a working-class background; I think that these circumstances contributed to an empathic atmosphere. Still, youth are notoriously difficult for adult
researchers to interview (e.g. Kumsa et al 2015; Kwok 2009). The youth I spoke with were mostly polite, friendly, and shy. As one youth worker said about the young men in custody with whom he works, “Some are boys; some are very much men. But they are all really just confused teenagers.”

With few exceptions conversation flowed smoothly and some youth shared extended accounts of their experiences, for which I feel honoured and grateful. Despite the seriousness of the subject matter, many drew on a sharp, witty, and often cynical sense of humour that enabled them to joke about the challenges they faced. For both interviewer and interviewee the interview material elicited a complex mix of emotional reactions including pain, bitterness, pleasure, anger, surprise, laughter, disappointment, and sadness. Some interviews fulfilled a cathartic function. For example, when Fayyad finished speaking, he told me that he had never told anyone about his life like that before and that it felt “amazing” and “refreshing” to “open up” and tell his whole story at once. Several other young people also expressed their gratitude for the chance to tell their story from start to finish because they do not usually get a chance to do so.

Totten (2001) discusses the legal, ethical, and clinical dilemmas associated with doing field work with youth gang members who engage in serious violence. As with the young people I spoke to, some of his interviewees had lived on the street, witnessed or perpetrated abuse or neglect, or required suicide intervention. Instead of avoiding this kind of work, Totten insists that researchers must continue to explore these issues and, whenever possible, get training prior to commencing research. With this in mind, I earned a certificate in Therapeutic Crisis Intervention (TCI) through the Elizabeth Fry Society prior to beginning the study. Totten & Kelly (2005) worked with local agencies to provide follow-up support after interviews to participants if needed, and I followed the same procedure (however, no such occasion arose).

Sometimes the issue of the truth status of participants’ accounts is raised in analyses of offenders’ narratives (Presser 2009). However, there is no reason to assume that people who have been convicted of breaking the law are more likely than anyone else to lie in an interview. Given that most people (including me) have committed an offence during their lifetime there is no evidence that information provided by “criminals” is less accurate than that provided by other research participants (including police or corrections staff). We tell
our stories as we perceive them and memory is inevitably selective. Rajah et al (2014) found that young people’s interpretations of their criminal justice experiences varied as a function of navigating the different strains associated with incarceration, program attendance, and re-entering communities (see also Bullock & Condry 2013 and Ewick & Silbey 1995).

Sandberg (2010) also addresses the question of how we know whether research participants are telling the truth and whether it matters. He suggests that doing research with “offenders” is no different from other ethnographic research: the same issues exist of establishing rapport, learning and understanding narrative codes, and balancing outsider and insider roles. With this in mind, I sought not to discover “the truth” but to deconstruct how contemporary forms of governance shape ways of being and belonging.

4.3 Description of Research Participants

Youth

When professional stakeholders described the demographic profile of young refugees they had worked with who were involved in the criminal justice system, the same African and the Middle Eastern countries came up repeatedly: Somalia, Iraq, Ethiopia, Rwanda, Afghanistan, and Sudan. As indicated in Table 1 below, the youth I interviewed came from similar places. Table 1 also provides information on the age of the young people I spoke with at the time of their arrival to Canada and at the time of the interview, their country of origin, immigration pathway (note that only one youth was a Canadian citizen), housing situation and municipality of residence (not necessarily the same as their parents, given that most resources are located in Vancouver and some had no-goes25 to their parent’s home), source of income, first charge, whether they had completed high school, their religious background and visible minority category, and whether they had served time in custody. All but one of the young people I spoke with admitted to having committed at least some of the offences with which they had been charged.

All of the youth who took part in the study were young men; I did not deliberately exclude young women, but was not able to identify any during recruitment who were also willing to speak to me. The focus on men, however, is not surprising given that around 75%...

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25 i.e. A no-contact order (“peace bond”) that prohibits contact with their parents, or a condition prohibiting them from going to their home.
of people involved with justice systems are male (Statistics Canada 2016a; 2016b). All of the
names used in this dissertation are pseudonyms.

Most of the young people I spoke with were sponsored refugees (GARs and PSRs) (Table 1) and my original intention had been to restrict interviewees to this category for consistency in analysis. Additionally, sponsored refugees are selected by the Canadian government, which has knowledge of their background and demographic characteristics before they arrive and therefore a greater ability to meet their needs in Canada, since they may be planned for in advance. In contrast, asylum seekers arrive on their own so it is more difficult to predict the needs of those arriving. Also, sponsored refugees have PR status when they arrive (in most cases), whereas asylum seekers must go through an extended legal process involving several changes in legal status. Although including only GARs and PSRs would have permitted a more focused analysis, I ultimately included two LCRs (i.e. people whose refugee claim had been accepted) among my interviewees, including one who was originally sponsored by a refugee family member, then made a successful refugee claim as a PR (for a description of these categories, see Chapter 3). Ultimately, I found that the significance to my analysis of identity categories such as age, race, gender, class, and ability, along with the experience of trauma, forced migration, and criminalization, superseded minor differences in refugee category.
Table 1. Study Sample: Youth Demographic Summary

<table>
<thead>
<tr>
<th>Interview Age</th>
<th>Arrival</th>
<th>Country of Origin</th>
<th>Immigration Status</th>
<th>Type of Residence</th>
<th>Place of Residence</th>
<th>Source of Income</th>
<th>First Charge</th>
<th>Grad. High School</th>
<th>Religion</th>
<th>Visible Minority</th>
<th>Jail Time</th>
</tr>
</thead>
<tbody>
<tr>
<td>24</td>
<td>13</td>
<td>Somalia</td>
<td>GAR→PR</td>
<td>SRO</td>
<td>Vancouver</td>
<td>PWD</td>
<td>Assault</td>
<td>No</td>
<td>Muslim</td>
<td>Black</td>
<td>Yes</td>
</tr>
<tr>
<td>18(15)&lt;sup&gt;a&lt;/sup&gt;</td>
<td>15(12)</td>
<td>Somalia</td>
<td>GAR→PR</td>
<td>With parents</td>
<td>Surrey</td>
<td>none</td>
<td>Robbery</td>
<td>No</td>
<td>Muslim</td>
<td>Black</td>
<td>Bail&lt;sup&gt;h&lt;/sup&gt;</td>
</tr>
<tr>
<td>39</td>
<td>20</td>
<td>South Sudan</td>
<td>GAR→PR</td>
<td>Halfway house</td>
<td>Vancouver</td>
<td>work</td>
<td>PSP&lt;sup&gt;f&lt;/sup&gt;</td>
<td>Yes</td>
<td>Christian</td>
<td>Black</td>
<td>Yes</td>
</tr>
<tr>
<td>28</td>
<td>8</td>
<td>Uganda</td>
<td>SR&lt;sup&gt;b&lt;/sup&gt;→PR</td>
<td>Shared rental</td>
<td>Burnaby</td>
<td>SA&lt;sup&gt;e&lt;/sup&gt;</td>
<td>Assault</td>
<td>No</td>
<td>Christian</td>
<td>Black</td>
<td>Yes</td>
</tr>
<tr>
<td>18</td>
<td>18</td>
<td>Tunisia</td>
<td>SR→PR</td>
<td>Group home</td>
<td>Vancouver</td>
<td>SA</td>
<td>Assault</td>
<td>No</td>
<td>Muslim</td>
<td>Arab</td>
<td>Yes</td>
</tr>
<tr>
<td>18</td>
<td>8</td>
<td>Iran</td>
<td>LCR→TR</td>
<td>Safe house</td>
<td>Vancouver</td>
<td>SA</td>
<td>Assault</td>
<td>No</td>
<td>Atheist&lt;sup&gt;g&lt;/sup&gt;</td>
<td>West Asian</td>
<td>Bail</td>
</tr>
<tr>
<td>18</td>
<td>7</td>
<td>Kenya</td>
<td>SR→citizen</td>
<td>Group home</td>
<td>Vancouver</td>
<td>SA</td>
<td>Assault</td>
<td>No</td>
<td>Muslim</td>
<td>Arab</td>
<td>Bail</td>
</tr>
<tr>
<td>24</td>
<td>16</td>
<td>Somalia</td>
<td>SR→LCR→PR</td>
<td>SRO</td>
<td>Vancouver</td>
<td>PWD</td>
<td>Assault</td>
<td>No</td>
<td>Muslim</td>
<td>Black</td>
<td>Yes</td>
</tr>
<tr>
<td>21</td>
<td>17</td>
<td>Somalia</td>
<td>GAR→PR</td>
<td>With mom</td>
<td>Surrey</td>
<td>SA</td>
<td>Assault</td>
<td>No</td>
<td>Muslim</td>
<td>Black</td>
<td>Yes</td>
</tr>
<tr>
<td>24</td>
<td>13</td>
<td>Sudan/Kenya</td>
<td>PSR→TR</td>
<td>Couch surfing</td>
<td>Vancouver</td>
<td>SA</td>
<td>Assault</td>
<td>No</td>
<td>Muslim</td>
<td>Black</td>
<td>Yes</td>
</tr>
<tr>
<td>29</td>
<td>13</td>
<td>Somalia</td>
<td>GAR→PR</td>
<td>Couch surfing</td>
<td>Richmond</td>
<td>SA</td>
<td>Theft</td>
<td>No</td>
<td>Muslim</td>
<td>Black</td>
<td>Yes</td>
</tr>
<tr>
<td>18</td>
<td>8</td>
<td>Afghanistan</td>
<td>GAR→PR</td>
<td>With parents</td>
<td>Burnaby</td>
<td>none</td>
<td>Assault</td>
<td>No</td>
<td>Muslim</td>
<td>West Asian</td>
<td>Yes</td>
</tr>
</tbody>
</table>

<sup>a</sup> This young man’s age was three years less than that indicated on his identity documents. I also interviewed his father.

<sup>b</sup> Sponsored by a refugee family member.

<sup>c</sup> Single Room Occupancy.

<sup>d</sup> Disability pension (Person With a Disability).

<sup>e</sup> Social Assistance.

<sup>f</sup> Possession of Stolen Property.

<sup>g</sup> This young man’s family background is Baha’i.

<sup>h</sup> Limited time spent in custody due to release on bail.
Table 2 describes the professional stakeholders I interviewed, indicating the type of agency they represented and the number of interviewees in each category. Interviewees (23 women and 19 men) represented a wide range of professions and experience. Law enforcement representatives included both Vancouver Police Department (VPD) and Royal Canadian Mounted Police (RCMP) police constables, including Youth Squad, Community Engagement, and Diversity Unit members, a sergeant, a youth diversion worker (who works with youth who have experienced police contact but have not been charged with an offence), and a school liaison officer (SLO). Correctional employees who took part in the study included youth and adult probation officers (PO) from both the federal and provincial systems, as well as from MCFD. I also spoke with a former CBSA agent with experience in law enforcement and deportations. Three lawyers participated in the study: a defense lawyer who specialises in immigration and criminal law, a prison lawyer, and a youth Crown attorney. Three municipal government representatives took part, including a community safety coordinator, a social planner, and a childhood manager. Finally, NGO interviewees were drawn from front line staff as well as middle- and upper-level management, including: settlement workers, settlement managers, front line and managerial social service providers, youth workers (including a social worker and a youth custody worker), an immigrant health care worker, a mental health court support worker, an immigrant court support worker, a SWIS program worker, a manager in an organization that serves people experiencing developmental or adaptive disabilities, and a manager in a criminal justice non-profit organization.

<table>
<thead>
<tr>
<th>Agency Category</th>
<th># interviewees</th>
</tr>
</thead>
<tbody>
<tr>
<td>Criminal justice non-profit</td>
<td>2</td>
</tr>
<tr>
<td>Criminal justice non-profit (youth)</td>
<td>2</td>
</tr>
<tr>
<td>SWIS</td>
<td>1</td>
</tr>
<tr>
<td>Health, including mental health</td>
<td>3</td>
</tr>
<tr>
<td>Immigrant settlement</td>
<td>10</td>
</tr>
<tr>
<td>Immigration enforcement</td>
<td>1</td>
</tr>
<tr>
<td>Law enforcement</td>
<td>3</td>
</tr>
<tr>
<td>Law enforcement (youth)</td>
<td>4</td>
</tr>
<tr>
<td>Legal services</td>
<td>3</td>
</tr>
<tr>
<td>Municipal government</td>
<td>3</td>
</tr>
<tr>
<td>Agency Category</td>
<td># interviewees</td>
</tr>
<tr>
<td>-------------------------</td>
<td>----------------</td>
</tr>
<tr>
<td>Probation (adult)</td>
<td>2</td>
</tr>
<tr>
<td>Probation (youth)</td>
<td>1</td>
</tr>
<tr>
<td>Social Services</td>
<td>4</td>
</tr>
<tr>
<td>Social Services (youth)</td>
<td>2</td>
</tr>
<tr>
<td>Youth Crown Attorney</td>
<td>1</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>42</strong></td>
</tr>
</tbody>
</table>

4.4 Analysis

Following the interviews, I transcribed the recordings and then coded the data manually by reading the interviews over and over again to identify preliminary themes and concepts, and then recoded until a stable system of categories emerged. The themes I identified formed the chapters, headings, and subheadings of this dissertation. Once I had identified the themes I wanted to focus on, I combed through the interviews again for specific material pertaining to each thematic area. My objective was to situate the empirical data within a conceptual framework. The analytical focus provided by the theoretical concepts that guide my analysis (posthumanism and performativity) is mine, not one that was suggested or necessarily endorsed by my participants. Also, I do not rely on overtly dehumanizing discourse to make my argument; just as institutional racism does not require overtly racist individuals, neither, I propose, does institutional humanism require overtly dehumanizing expressions. Instead I focus on the effects of policies to understand their function in the anthropological machine. In doing so, this dissertation tells a particular story to explain the settlement outcomes of the refugee youth I spoke with.

I use material gathered in interviews with youth and professional stakeholders to explore how cultural frameworks are filtered through policy into the lived experiences of the young people I spoke with. However, cultural frames are not self-evident; to study them, we must construct them (Rein & Schon 1993). Although the origins of policies are difficult to trace, policies produce effects that structure our daily lives (Ball 1994). Therefore, to some extent, we can infer the narratives that policies are based on through their effects on people’s lives. I draw on performativity theory to connect these ideas with the theoretical framework outlined in Chapter 2 and the policies and processes I described in Chapter 3. Butler’s early development of performativity theory suggests that reality is not pre-given or static but is continually created through “discursive practice that enacts or produces that which it names”
(1990, 13). For Butler, gender is a performance rather than an innate, fixed or ahistorical state; it is the iterative effect of ongoing, embodied, and power-laden performances. In this view, humanist identities, norms, and subjectivities are not stable, natural or inevitable, but rather are continually brought into being through performances that organize and reproduce unequal social power relations. Issues of representation are based on performances that construct what it means to be male, female, Black, White, human, subhuman or non-human. These roles are performed every day. Below I describe how I brought the lens of performativity to my study.

Performativity

Although performativity is not often associated with analyses of the criminal justice system, nor policy analysis generally (Singh et al 2014), I use it to reveal the relationality between discourse and materiality by focusing on how the discursive/material relations between my young research participants and police officers, teachers, POs, and correctional officials stabilize and establish the human/non-human boundary. I argue that the criminal justice, immigration, education, and social welfare practices operative in the lives of the criminalized refugee youth I spoke with perform the humanist figures of the human and non-human. To propose that criminal justice policy and processing is performative is to suggest that criminal justice models and tools are not, as conventionally understood, inert reflections of an external world. Rather, criminal justice processes and apparatuses actively bring into being the dehumanized criminal identities they purport to describe and manage. These processes, which include poverty, homelessness, exclusion from education and labour markets, dependence, violence, caging, and silencing, are in turn dehumanizing. During interviews, youth described the challenges they faced in navigating Canadian bureaucratic institutions and the strategies they used to deal with those challenges, which sometimes involved criminalized behaviour. I examined their narratives to learn what they revealed about humanism as the dominant cultural narrative. At the same time, I brought my knowledge of the human figure constructed against nature to the interview data to illuminate young people’s experiences in light of dominant norms. At a basic level, performativity means that something produces a series of (intended or unintended) effects. I looked for words, phrases, situations, and events that recalled notions of rationality, autonomy,
independence, individualism, and whiteness, characteristics which define the humanist figure of Man. I also sought out indications of raced, classed, gendered, ableised, and aged discourses and patterns of behaviour. These categories of identity and domination are modes of ordering that perform subject and object positions which in turn constitute subjectivity; these positions are important if we want to understand the performativity of policy narratives.

Butler (2009a) examines the ways in which political orders position marginalized subjects outside dominant frames. She argues that performativity is intimately connected with the production of subjects whose life is worthy of protection and of mourning. These practices are “stitched to questions of what and who gets to count as human” (Stanescu 2012, 3). Therefore, she argues, “The construction of the human is a differential operation that produces the more and the less ‘human,’ the inhuman, the humanly unthinkable. These excluded sites come to bound the ‘human’ as its constitutive outside” (1990, 8). Thus, the human and the non-human are not ontologically given but continually reproduced as figures that serve in subject formation, the allocation of resources, and the creation and justification of social hierarchies and inequalities grounded in species distinction. For example, I argue that the boundary between humans and animals is a line that is continually redrawn—iteratively performed)—within and by the bureaucratic systems described in Chapter 3. To say that policy performs the human figure is to say that the human figure is real only insofar as it is performed. The appearance of substance is a performative achievement in which we come to believe and, in that belief, to perform. In this way, performativity rejects the notion of identity as the source of action and instead investigates the construction of identities as they are created by performative behaviors and discourse. Applying to my argument Butler’s (1990) claim that there is no subject that exists prior to gender suggests that, for a Westerner, there is no human or subhuman self preceding the self as defined by liberal humanism.

Performativity offers a means of theorizing power through the production of rules and norms because social practices such as incarceration, racial profiling, violence, and disposability cite dominant norms. While social constructionism suggests that knowledge and social institutions are produced by actors within systems rather than existing prior to culture as natural entities, performativity provides the mechanism for the reproduction of dominant norms and identities that are socially constructed. Even ordinary communication and behaviours are performative in that they serve to define identity. Performativity very often
means the repetition of oppressive and harmful norms defined by race, class, gender, age, ability, and species that constrain action. The human figure as White, middle-class, able-bodied, and male is continually remade through the repetition of dominant norms that define how bodies may be treated. The treatment of bodies that do not conform to dominant norms produces marginalization and, for the youth I spoke with, also criminalization. Criminalization, which disproportionately affects racialized men, creates criminals. Criminals are perceived as beasts or animals (Olsen 2014). Because they are irrational, animals require harsh treatment (Patterson 2002). Violence begets violence (Morin 2015). The result is the violent, seemingly irrational, dehumanized figure of the dark male youth that is supposedly the focus of racial profiling, risk assessment, and danger determinations. In these ways the criminal justice system creates the very figure it claims to describe; it performs a dehumanized figure exemplified by the young people who took part in this study.

In making these claims, I do not suggest that no beneficial policies exist or that individual policy-makers or youth workers are not caring or thoughtful people doing their best in a less than perfect system. I am also not suggesting that there is a plot among policy-makers, law enforcement personnel, or NGO employees to instrumentally brutalize some young people in order to prop up their own race, class, gender or species privilege. Instead, I focus on the systemic workings of what Agamben (2004) called the “anthropological machine,” which grinds out old metaphors and stereotypes as part of a discursive system, rather than simply the product of individual intention. Yet, we cannot stop the machine if we remain unaware of its functioning. The iterative performance of the human and non-human categories sustains the machine. If these categories were no longer performed, they would disappear and the machine would grind to a halt.

At the same time, I do not propose that the young men who took part in this study have never made mistakes. However, my perspective is that when young people come to Canada from violent backgrounds as children (i.e. under adult control) then Canadian systems have an obligation to proactively ensure that those young people receive the supports they need to thrive. If, a few years after arrival, they are carrying a gun and selling drugs, then that is a “failure” of Canadian policy given that the stated aim of immigration and multicultural policy is to promote successful integration into mainstream society. Unquestionably, some young people commit serious violent offences that victimize others. I
do not propose that these incidents should be ignored, but that incarceration and punishment without effective opportunities to overcome underlying issues is socially unjust and ultimately reproduces the problems that such practices ostensibly seek to address.

4.5 Study Limitations

The generalizability of my study findings is limited by three broad factors: the terminology I used during recruitment, my sample size and selection methods, and through my focus on theory and structure over agency. I address each of these in turn below.

Recruitment

One difficulty I encountered during recruitment arose from different understandings of the term “youth” in bureaucratic systems. In the immigration policy world with which I am most familiar, “youth” is a general term referring to people aged 13-30. However, in the criminal justice world, youth has a very specific meaning: people under 18. It proved challenging to straddle this definition to look at young people aged 18-30 and may have made recruitment more difficult as some criminal justice professionals were confused by my use of the term.

A similar challenge pertained to my use of the word “refugee.” Although the category of refugee is a useful one, it caused confusion when speaking to people in the criminal justice system who generally understood it to refer to asylum seekers and LCRs, and it was difficult to make clear that I was actually interested in sponsored refugees. For example, even though I carefully differentiated between GARs, PSRs, and LCRs in my proposal to Provincial Corrections, one of the reasons for its rejection turned out to be based on precisely this misunderstanding; the reviewer thought I was referring to LCRs and indicated that there are very few such people in the criminal justice system. Once again, the effect of this confusion was to limit my recruitment ability.

Sample

Although I did not speak to as many youth as I had originally hoped, the narratives and experiences that young people shared with me align with what professional stakeholders indicated, as well as with the literatures on criminal justice, youth, and immigration. I feel
privileged to have spoken to as many as 12 criminalized refugee youth, given the extent of the marginalization they face. The young people I spoke with are marginalized in research as well as in policy and in society generally; that I was able to interview a relatively small number both confirms and reinforces this claim.

Since I only spoke to racialized young people who have been criminalized, it could appear that the study is open to the critique of “sampling on the dependent variable.” I did not speak with youth who arrived in Canada in similar circumstances (i.e. as refugees, visible minorities, males, etc.) who are not involved in the criminal justice system. Therefore, I cannot explain the precise dynamic that sets things in one direction rather than another for individual youth. Further, lacking statistical data I cannot say how many young refugees are involved in the criminal justice system. Importantly, however, I do not seek to extrapolate from a few individuals or social situations to many; rather I try to move specific incidents and anecdotes to the discursive field that enables certain conditions and constrains others. In other words, I seek to understand the narrative framework behind the policies that affect the situation of the young people I spoke with, rather than all youth, all refugees, or all criminalized people. Consequently, I am not telling the story of all racialized refugee youth, but a story to explain the experiences of the young people who took part in this study. These conditions limit but do not entirely negate the generalizability of my findings, which may be extended to understand the experiences of to all criminalized refugee youth.

A related critique could focus on the lack of a “control group.” For example, a justification provided by BC Corrections for rejecting my proposal included the following: “Individuals who come through the justice system can do so for any number of reasons, therefore to provide an objective review, you would need to recruit a comparison group. Recommendations are not appropriate if not based in an objective data set.” Mertens (2007) discusses some of the methodological challenges associated with culturally complex, low-incidence groups such as the youth I interviewed. She notes that the use of control groups determined by random assignment contradicts the underlying logic of individual circumstances, given the idiosyncratic nature of low-incidence populations due to the small sample size. The uniqueness of the population also creates problems with attempts to replicate findings and it is difficult to demonstrate broad generalizability of results.
Consequently, qualitative methods may permit more accurate portrayal of the experiences of complex populations that also exhibit low incidence.

It is also worth noting that the fact that not all racialized refugee youth end up in the criminal justice system does not mean there is not a broad pattern of criminalization of racialized young people (see Chapter 3). While a tiny minority of people benefit from humanist structures, the vast majority experience marginalization. For the racialized refugee youth who took part in this study, this includes criminalization. My review of the literature demonstrates that humanism permeates every aspect of life in the West and is the dominant view shared by most scientists, politicians, theologians, philosophers, and scholars (including most critical theorists) (see Chapter 2). The effects of humanism are most devastating for other-than-human beings, but we are all entangled in the humanist warp and weft that conditions the fabric of society. My literature review also shows that some groups of people are more vulnerable to dehumanization than others. Specifically, racialized people, refugees, criminals, women, the working classes, people with disabilities, and children are conventionally understood to be relatively lacking in rationality and “closer to nature” than White people, men, the middle/upper classes, and the able-bodied. Therefore, while the processes I describe apply to all criminalized refugee youth, they may not be exclusive to criminalized refugee youth; they may apply to African, Muslim, racialized youth, refugees, and criminalized people generally. The young people who took part in my study fall within all of these categories, and so the dehumanizing processes I detail in subsequent chapters are layered. However, my objective is not to claim that all refugee youth experience racialization or criminalization in the same ways. In an earlier study (Francis 2010) I used the metaphor of onion to illustrate the ways in which overlapping challenges exacerbate one another, suggesting that each layer implies additional disadvantage. I believe a similar process operates here.

Finally, it is worth noting that maintenance of the dominant narrative extends to the methods deemed appropriate for creating knowledge and determining who may participate in knowledge construction. Critics may dismiss marginalized narratives as unverifiable or lacking in objectivity, but if scholars respond by seeking evidence that meets validity and reliability criteria, they verify the legitimacy of these rules of knowledge formation (Atwood & Lopez 2014). These methodological questions also highlight the ontological and
epistemological concerns about who is included in research and whose voices are heard in policy that I raise in this dissertation.

Theory, Structure, Agency

Another potential limitation may result from my structural focus on Canadian society and policy; by emphasizing institutional humanism I neglect the agency of young people and their families. Obviously, youth are making decisions about their lives within the contexts I describe. I am not looking at why people commit criminal acts (since that includes almost everybody) but why some people are criminalized and the discursive and material effects of criminalization. My aim is to contextualise the experiences of the criminalized refugee youth I spoke with in broader humanist structures and frameworks that dehumanize particular bodies. In short, I am not explaining individual behaviour but the ways in which the humanist foundations of Canadian law and policy disproportionately marginalize particular kinds of bodies. Young people who, by definition, lack life experience often make decisions that get them into trouble with adults. Given this, I believe it is the task of adult-designed systems to create conditions in which youth can make decisions that will not result in lifelong stigma, precarity, and exclusion. It is not that the actions and decisions that youth make do not matter, but that adult society needs to take more responsibility.

Furthermore, while it is true that people sometimes make poor choices, structures significantly constrain choice. This view aligns with posthumanist perspectives which insist that one consequence of seeing humans as part of nature involves an acknowledgement that decisions are not solely the outcome of individual human intention (Sundberg 2011). As Haraway (2008) states with reference to the fact that the human body comprises only around 10% human DNA: we were never alone.26 The liberal standpoint posits a view of humans as atomized individuals making choices based on autonomous free will who must be held accountable for their actions; conversely, the posthumanist perspective perceives humans as nodes in networks of power relations that include all other beings and calls for the acknowledgement of complicity and, in Sundberg’s (2015) terms above, entanglement.

My focus on the broader theoretical framework of humanism also means that I do not examine the systems of support that exist. While I offer brief critiques of social service

26 In fact she goes further, asserting that “we” were never human (Haraway 2008).
provision in Chapters 7 and 8, I cannot in this dissertation look at the entire range of service provision and programming. At the same time, supports are provided within the broader humanist framework and are for the most part aimed at incrementally increasing young people’s access to rights or helping young people navigate the racism and classism they face in society generally. My goal is to understand how a particular human figure is performed rather than to provide guidance on how to offer services to young people within humanist structures. A structural argument highlights that while individuals have some agency for action within structures, an explanation based on individual agency, psychology, or behaviour is insufficient. The task as I see it is to undermine structural challenges rather than to attempt to fix individuals or figure out how some people manage to “get around” racist arrangements in order to help a few others do the same. Identifying “protective factors” that create “resilience” (to racism, sexism, ageism, ableism, and so on) may improve the lives of some people in the short term, but doing so will leave the degraded animalistic figure, as well as the racism, sexism, ageism, ableism, and classism that rely upon it, intact.

Finally, while my focus on advocacy and theory rather than “objectivity” and the provision of immediately practicable recommendations may alienate policy makers, such an analysis is necessary in order to gain a fuller comprehension of the forces at play in the lives of the youth I spoke with. Hier (2007) argues that a lack of attention to epistemology limits the extent to which research is able to document and explain the complexities of race and racism (also gender, class, age, and so forth), thereby potentially restricting the effectiveness of policy development and contributing to the polarization of research findings. He concludes that we require explanations for both why racism persists and in what ways it manifests at particular historical moments. This dissertation incorporates these dual concerns by revealing some of the complex ways in which the material effects of contemporary public policy frameworks are embedded within humanist socio-historical ideological constructions. An understanding of theoretical frameworks is also vital in light of critical policy analyses suggesting that policy decisions tend to be made based on decision makers’ worldviews rather than on research data (e.g. Braun 2000; Colebatch 2012; Ney 2009). As Cochran (2009) suggests in the opening quote, policy making cannot be separated from the production and reproduction of societal values.

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27 However, I will focus more closely on support systems in the Community Forum (see below).
Dissemination and Future Obligations

Smith (2012) reminds researchers that who will listen is at least as important as who is speaking, and that there are diverse ways of disseminating knowledge and ensuring that the research produced reaches the people who helped make it. Collecting people’s stories entails an ethical obligation to ensure that my research reaches a broader audience of people who might use the findings to promote positive change. With this in mind, I presented an outline of this proposal to an audience of settlement practitioners, activists, academics, policy makers, and community members at the Canadian Council for Refugees (CCR) National Consultation in Vancouver on May 30, 2013. I also presented my preliminary findings at the Metropolis National Conference in Vancouver on March 27, 2015.

I am committed to sharing my findings and analysis widely. I will hold a Community Forum in spring 2017 to present my findings to the people who participated in the study and to local NGO and governmental employees. Prior to the Forum, I will provide a written report to the professional stakeholders and their agencies who took part in the study. In addition, dissemination will involve publishing and presenting the study findings to diverse audiences including policy-makers, NGOs, academics, and community groups, in a variety of venues and formats over several years, including as working papers, at conferences and community presentations, in media reports, and in academic journals.

4.6 Conclusion

This chapter described my research design and methods, as well as some of the limitations arising from the way I conducted the study. One of my objectives with this project was to bring to light the experiences of people whose stories are not often heard. I take up this theme in more detail in the following chapter, which begins the presentation of my empirical findings through an examination of the ways in which the erasure of personal, familial, and cultural histories of the young people I spoke with produces an animalized subhuman figure via institutional systems grounded in humanist frameworks that define whose knowledge counts.
Chapter 5. Personal Stories Erased

“There are a lot of youth out there that have no direction. So if Canada could have a program integrating their story—knowing [these] things: where they are from, their background, their story, and what is their focus in life. Yes, they’ve done a good job bringing them out of the refugee camp to here, but it’s not enough.” –Patience

“You know you are from somewhere, even if they don’t know.” –Fayyad

“How is language, as the unique property of the human being, deployed as a modality of animalization, desubjectification, racism, and so on? Simply, it entails technologies that serve to deny and exclude the Other from the use of language and thereby to render this Other into a brute” (Seshadri, 2012; 12).

“Here it isn’t about where you’re from, man, you know, it’s like ‘what are you?’” –Hassan

5.1 Introduction

This chapter presents my empirical findings through an exploration of the ways in which the personal, cultural and familial histories of the criminalized refugee youth I spoke with are dismissed within bureaucratic institutions, especially those associated with criminal justice and education. In this and the following three chapters, my analysis weaves between the conceptual and the empirical in order to reveal the ways in which humanism as a theoretical paradigm is operationalized in institutional policies and practices that shape the lived experiences of the criminalized refugee youth I spoke with. As Sheshadri (2012) indicates above, silencing is animalizing/dehumanizing. I argue it is also performative of the human and sub/non-human figures because it produces the dehumanized figure of the criminalized refugee youth. I open this section with an overview of how the question of “whose knowledge matters” is resolved within humanist frameworks in favour of those who correspond to the dominant conception of the ideal human based on the humanist presumption that only humans count, while other voices are muted.

Posthumanist scholars have drawn attention to the question of who/what counts as a legitimate matter of social concern, and the ways in which such determinations rely on and sustain the boundary between nature and culture, humanity and animality (e.g. Barad 2003;
Butler 2009b; Deckha 2010; Haraway 2008; Sundberg 2013). Examining who is authorized to speak and what institutional sites they speak from can therefore reveal how “objects” of knowledge are formed. Mountz suggests that immigration policies strategically position groups of people in relation to the state through their identification as particular types of subjects. She states, “One’s identity and location are central to this process of classification, constituted through federal immigration policy…Cultural identities are constructed through quotidian practices, influenced by departmental cultures and the larger body politic” (2010, 28). Consequently, it is important to consider the social processes through which identities are enacted by examining the interfaces of discourse and materiality, and of figure and institution. I do this via a posthumanist theory of performativity that shows how the erasure of the personal and cultural histories of the criminalized refugee youth who took part in this study performs a species distinction among humans by denying those youth a fundamental feature of humanity (as understood in humanist discourse), namely a meaningful personal history or voice. This is not to imply that the youth I spoke with have no voice or do not exercise forms of resistance, but rather to underline the mechanisms by which their voices and concerns are discounted by those with decision-making power over their lives. From the outset of the study I was informed that criminal justice agencies do not differentiate between refugees and other people. As the research progressed, I became aware of other ways in which the personal histories and experiences of some refugee youth are dismissed or ignored. In particular, racialization, recent arrival to Canada, language difficulties, trauma, and immigration status, which, to a large extent, define young refugees’ experiences, are deemed irrelevant. Through such means, particular people and forms of knowledge are subalternized while others become the universal against which the rest are measured.

Voice pertains to speech and language, commonly held to be a unique and defining feature of humanity. In *HumAnimal: Race, Law, Language*, Seshadri (2012) explores dehumanization as the deprivation of speech. She argues that the erasure of speech, which results in muteness/bestiality (bêtise), is created through exclusion from political discourse; silencing is part of a process of dehumanization. Moreover, the assumption and enforcement of silence on the part of the colonized and the less than human is what makes possible the position of the West, and of a particular kind of human, as universal narrator (Said 1979). As discussed in Chapter 2, in the same way that the Orient was Orientalized (Said 1979), Africa
was Africanized through a process of representing the Other that marked these regions as timeless and barbaric. From the outset of the colonial venture, Indigenous peoples were assumed to contribute data/nature/physical labour/raw material, while Europeans supplied culture/mind/theory/knowledge, with the former defined as inherently inferior to the latter. Accordingly, discussions of the scientific foundations of Western research rarely mention Indigenous contributions since the logic of the system dictates that to do so would be akin to acknowledging the contribution of a piece of pottery or a stone (Smith 2012, 60). These powerful constructions remain relevant today. For example, Spivak has drawn attention to how the “foreclosure of the native informant” (1999: 5) in European history and philosophy constructs a narrative that positions non-Europeans at the global margins as the people without history. Within the humanist structures she identifies, marginalization is effected via practices of racism, ageism, ableism, and so on. Similarly, Mahtani (2006) argues that the performance of whiteness as normative is maintained through the right of white policy makers and scholars to reject alternative knowledges.

I engage with these ideas in this chapter to argue that the negation of young people’s stories is an extension of the foreclosure that Spivak identifies and also a humanist performance enacted by institutional policies and practices that construct the young people I spoke with as peripheral subhuman figures, or, in Deckha’s (2010) terms, “animalized humans.” The operationalization of humanism entails the enforcement of rules that govern the politics of visibility and invisibility centered on the figure of the “dark criminal alien” that is banished from the human realm. Shoved to the margins of humanity, those defined as less than human become inconsequential, and, as I show in Chapter 7, disposable.

I focus on three key means by which the personal narratives of the young people I spoke with are negated. First I look at the rejection of refugee status as a meaningful consideration in institutional processes, which is part of a larger rejection of structural explanations for inequalities. The dismissal of this important aspect of young refugees’ identity enacts the erasure of their history, culture, and personal story and performs their subhumanity by constructing them as a group of people who lack human characteristics and therefore do not matter. Next, I turn to the lack of opportunities for young refugees to talk about or work through their experiences and the accompanying unrealistic expectations of refugee youth in social service programs that follow; this silencing and denial of speech
entails a further devaluation of their experiences. Finally, I examine what happens when teachers, school administrators, social workers, and POs reject young people’s explanations for their behaviour. Since the possession of voice, language, and knowledge that matters are defining features of humanity, the denial of such serves a performative role by producing objectified and dehumanized bodies that lack language, voice, and knowledge.

5.2 The (Ir)Relevance of Refugeehood

The rejection of refugee status as a meaningful consideration in the processes that I describe below is part of a broader denial within liberal humanism of structural explanations for inequalities, based on a conception of the universal human as a free, autonomous, rational actor, unencumbered by race or class, who acts independently as an individual. However, this universal ideal does not align with criminalized refugee youth’s experiences because, as my review of the literature in Chapter 2 showed, the “universal human” is based on a particular account of human subjectionhood. Refugeehood entails a lack of autonomy and a level of dependence because refugees are forced to leave behind home and family supports. Refugees who end up in camps are often perceived as a mass, flood, or flow rather than as individuals (e.g. Cohen & Deng 1998). They are frequently pictured living rough, sitting on the ground, and surrounded by flies (Feyisa 2008). Bauman (2004) suggests that they are the “waste product” of globalization. By definition, refugees are always already dehumanized because they lack independence, shelter, autonomy, individuality, sometimes literacy, and are traumatized and racialized; in other words, they do not conform to the parameters of the human figure. While refugees are clearly not helpless, their need for support is undeniable. Yet in Canada they encounter a powerful liberal ideology of individual responsibility for personal welfare that dismisses their past experience. At the same time, ignoring the refugee experiences of the youth I spoke with discounts trauma as an aspect of personal history and reframes behaviours (such as violence) arising from trauma as criminality. Together these processes contribute to the focus on offence rather than offender characteristics that currently characterizes criminal justice processing (Corrado et al 2007; Hogeveen 2005), and

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28 Focusing on the offence promotes a view that all offences of a certain type should be dealt with in exactly the same manner; this way of thinking underlies mandatory minimum sentencing. Conversely, a focus on the offender takes into consideration personal circumstances and could lead to variable outcomes for individual offenders which could have greater rehabilitative impact.
which promotes criminalization and punishment rather than understanding and support. The focus on offence is undergirded theoretically by rational choice individualism, criminological positivism, and a rejection of structural factors such as poverty, racism, and patriarchy as considerations in discussions about the causes of or solutions to youth crime. Criminalization entails further dehumanization due to the association of criminality with savagery and bestiality (Canton 2010; Olsen 2014; Pavlich 2006). Below, I share my findings concerning the specific ways in which the relevance of refugeehood to the experiences of the young people I spoke with is dismissed by law enforcement, courts, and corrections and explain how doing so enacts a subhuman figure by defining whose story matters and who counts.

Law Enforcement

While I was recruiting interviewees, representatives of criminal justice organizations frequently informed me that they are unaware whether they have any refugees in their files because they treat everybody the same way and therefore refugee status is irrelevant. For example, Angela, a police worker insisted, “[Police] don’t differentiate between refugee and non-refugee, immigrant, non-immigrant; it’s all the same: you commit the crime, you’re going to get the same treatment.” Chan and Chunn (2014) consider the liberal notion that offenders should be treated identically. They point out that if racism and sexism were really of the past then we would be truly equal and have the same opportunities. However, this conception neglects the importance of the amply documented race, gender, and class differences in criminalization (see Chapter 3) and also takes for granted the atomized individual who acts alone based on free will that posthumanist scholars have called into question. While the ideal human is unmarked by race, class or culture, settlement and youth workers stressed the importance of culture and identity.

Fatima, a settlement worker, emphasized, “Culture is important...Members of the family might commit a crime to defend their sister or brother as they see it…It’s okay to have structures, but Canadians have to think about where these people came from.” Negating the importance of culture and personal experience objectifies and dehumanizes the refugee youth I spoke with by treating them like non-human entities that have no culture or history. Theresa, another settlement worker, suggested, “Interventions and spaces where people can share that kind of information [about their past experiences], although it’s not considered part
of the settlement process, is part of the settlement process because the reasons why people get in trouble most of the time are not belonging and not understanding.” She provided an illustration, “We have a youth who’s been in trouble for quite some time and he doesn’t understand a lot of what is happening. He’s clueless in terms of, ‘Why is it that I’m in trouble?’ …What he did is not a crime back home—it should be—but whether we like or not, he’s confused…the key is that people will get to grips with what is happening at their own pace and pushing is not beneficial.” Pascaline, who provides social and settlement services, also wished for greater cultural understanding, stating, “MCFD and police need people who understand people’s experience and where they are coming from—you can’t just treat them like a Canadian family.” Treating young refugees like people who were born here denies their existing culture. Since culture is the defining feature of humanity (Haraway 1989), denial of culture implies denial of human status and is therefore dehumanizing. Dehumanization performs the subhuman figure by placing the youth I spoke with into that inferiorized category.

The pasts of the young refugees I spoke with were not only deemed irrelevant in the context of their offence, but some were criminalized for actions which in the refugee camp may have ensured survival. Rather than starting from where youth are and building from there, their actions were criminalized and they found themselves with a criminal record. There could be some flexibility when it comes to young refugees—especially for the first offence; given the difficulty of leaving the criminal justice system, criminalization can mean a life sentence of poverty, marginalization, and violence (Garland 2001; Wacquant 2004).

The youth who took part in this study came from places where violence was a normal part of daily life. All of them had been beaten countless times by adults (parents, teachers, and police). RCMP members told me that they find themselves in the position of “educating” refugee youth about the laws because youth frequently engage in behaviours (such as fighting) that were previously normalized but here lead to criminal charges. Unfortunately, “education” in this case implies criminalization. Everybody I spoke with described the shock of being arrested for acts at which nobody back home would have batted an eyelash. Hamdi recalled, “The first time I got in trouble was for fighting. I thought it was normal here because that is what kids do in Africa: they fight and there’s no charge. So I was so surprised the first time; there were a lot of police! I was scared—they arrested me and took me to the
police station for a few hours…I didn’t understand anything.” Settlement workers shared many such stories. After telling Theresa, a settlement worker, about how James once came to my office armed with a long serrated kitchen knife, she responded, “Yes, for him it’s no big deal because that’s exactly what he did at home: you have to comport yourself in a certain way and that’s the rule of the land. Then you come here, you have a problem with someone, and…you walk right into a cell.”

Suliman, a youth PO, explained, “We’re trying to understand that their concept of violence is a bit different from ours. So we’re getting some of these kids that aren’t understanding that, ‘I just told him I wanted his Northface jacket’ is robbery in Canada…A lot of that is happening, and the level of violence is also a problem. Some of these kids are coming from very traumatic backgrounds.” In other words, trauma and formerly acceptable behaviour is criminalized. The decision to criminalize behaviour rather than address it through counselling or other means is a policy choice that has material and discursive effects, including the expulsion of youth from educational opportunities and employment, as I show in Chapter 7. While I appreciate Suliman’s efforts to understand where refugees are coming from, at that point they already have a criminal record. Moreover, given the research showing the limited or nonexistent effect of deterrence (e.g. Apel & Sweeten 2010; Corrado et al 2006; Kupchick 2006; McGrath & Weatherburn 2012), coupled with the fact that many people attract multiple charges, the purpose of criminalization cannot be to prevent crime. Instead, I argue it is a means of dehumanization that creates the animalized human figure and perpetuates humanist inequalities.

Daniel was also surprised when his first fight at school, which arose out of his response to frequent racist taunts, led to a criminal charge. He explained that back home, “You shake it off; the parents tell [the kids] to make sure it doesn’t happen again, and it’s okay –the next morning you see them playing again. But over here, they take it to the extreme. It’s like, ‘Whoa, you punched a guy in the face and now it’s a problem…We’re going to call the police, and you’re going to court.’” In past decades, when immigrants and Canadians were overwhelmingly White, schoolyard fights were usually dealt with informally, although militaristic “reform schools” existed for the most “incorrigible” youth. The removal of discretion in the context of violence, which has led to the increased criminalization of teenage boys in particular (Sprott & Doob 2009), accompanied the shift to
visible minorities making up the majority of immigrants to Canada, raising the question of whether the spectre of young Black males may have influenced the change.

Revealing how a criminal record can haunt youth, Daniel recalled that the principal told him when he was expelled,

‘You’re going to have a hard time staying in schools because at every school they’re going to read the report from the last school you went to.’ So they already judged me. You get to the new school, they have my report, and they’d be like, ‘Okay, well, this is not good; I don’t think you’ll fit in among the other students because of what you did in the past.’ … But maybe you did something last year in the last school and you’re going to rethink that: ‘Okay, I’m not going to do that next year because I don’t want to fuck up my school year.’ You should have a chance to show yourself, but that was the end of it and from that, in different ways I just started falling into the justice system.

Not only was Daniel’s cultural history dismissed, but he was then judged and, at least in his mind, given no second chance to prove himself. Daniel asked that police officers listen to what actually happened before laying charges. Based on his experience of being arrested unfairly, in his opinion, because he was only responding to the racist violence of another youth, Daniel suggested: “Maybe this person caused the problem and that made the other person act the way they acted; he didn’t just act like that because he felt like it—no, no, no, there’s a cause for that. So before pursuing charges, throwing people on the ground, being all mean and so on, investigate: find out what happened first, and get a good perspective.”

Similarly, Patience, a settlement worker pointed to the importance of knowing where [refugee youth] came from, their needs, what is their story, what have they been through—has anybody even cared to ask that? Before somebody acts out there is something inside. So why are they acting out? [You need to] figure out where they are coming from…Then when you address their needs, they will know that somebody cares about them, and knows and understands their story.

Fayyad explained that he deals with such judgements by acknowledging his value to himself even if the police discount his experiences, “It took me a while to get over what happened in the past, but now I’m not afraid of [the police]...You know you are from somewhere, even if they don’t know.” In other words, youth know they are a valuable person with a meaningful past, even if the criminal justice system does not acknowledge this. Denying the story, voice, and experience of the youth I spoke with performs their objectification and dehumanization
and sustains the boundaries of the human figure by denying some bodies the characteristics that define the human category, including voice, history, and value.

It is not only in law enforcement that refugeehood is dismissed; courts also do not give consideration to refugee background, although such information may be included in a pre-sentence report (PSR). However, Terrance, a Crown attorney noted, “There’s not a lot of information [in PSRs] in terms of refugee status and what they’ve gone through and how that’s affecting them now, other than maybe a single statement. And to say whether or not that would affect sentencing—I’m not sure it would.”

Correctional officials also disregard the refugee pasts of the youth I spoke with. This dismissal is an aspect of the liberal colour- and immigration status-blindness within criminal justice systems identified in previous scholarly work (Henry & Tator 2012; Jiwani 2006; Roberts & Mahtani 2010). However, Kirin, who has extensive experience in the criminal justice system as a CSC PO and Institutional Probation Officer (IPO), as well as experience managing a criminal justice NGO, indicated that there may be some nuances. While not suggesting that the needs of Indigenous people within the criminal justice system are met, she argued that the Canadian carceral system is founded on a dichotomous understanding of offenders as either Caucasian or Aboriginal that ignores the significance of culture or refugeehood and, in doing so, inhibits rehabilitation,

There’s this whole mix in between that we’re not paying attention to—we don’t recognise the significance of their ethnicity or culture or their social history in how they came to be here, and why it is that they are facing the issues that they are: we just treat them like everybody else. But especially those that are coming as refugees from war-torn countries—there’s just so much going on for them. They’re carrying all that with them, there’s trauma, there’s different things they need or that are at the root of the issue. Or they’ve had to leave family behind, or they’ve lost family in making the journey over; there is just so much more that can be done to help them heal because it’s usually because that healing hasn’t happened yet that they get led astray or drown their sorrows in drug addiction.

Further to Kirin’s points, Provincial Corrections stated in their rejection of my research proposal, “It is not the mandate of BC Corrections to meet the needs of refugees or immigrants. We focus on criminogenic needs for all our clients, which are needs that are known to predict reoffending.” As discussed in Chapter 3, calculations of criminogenic needs/risks are produced using tools that were developed with samples of White male offenders and discriminate against youth, people with disabilities, and members of minority
groups who are classified as particularly risky/dangerous (Hannah-Moffat 2005; Hannah-Moffat 2013; Simon 1998). Since many risk/need indicators are associated with social marginalization, this practice could result in more punitive dispositions for marginalized youth (Mauratto & Hannah-Moffat 2007). Criminalized refugee youth fall short when judged against the ideal human figure and are thus affirmed as threatening. Therefore, insofar as refugee status is correlated with marginality, it is an important factor for consideration in criminal justice processes. At the same time, the tools classify needs/risks as problematic only to the extent that they are correlated with a statistical risk of recidivism (Mauratto & Hannah-Moffat 2007). Illiteracy, trauma, poverty, family separation, and lack of English, which comprise aspects of many refugees’ experiences, do not demand attention, even though, arguably, addressing these would reduce the desperation that some people feel and therefore decrease the likelihood of criminalization. These findings reflect a focus on individual choice requiring individual intervention, punishment, and deterrence, rather than listening to people’s stories and understanding where they are coming from, before criminalization occurs. Through these processes, dehumanized figures (refugees, youth, racialized people) are further dehumanized while the human/non-human boundary is iteratively redrawn and solidified.

Trauma

A critical feature of refugeehood is trauma; forced migration is inherently traumatic. Most of the youth I spoke with experienced mental health issues, especially depression, trauma, and addiction, but also bipolar disorder. People experiencing poor mental health are disproportionately criminalized and mental illness is exacerbated by criminalization (Chaimowitz 2012; Chan & Chunn 2014; Joseph 2014; Somers et al 2015). Criminalizing mental illness, including addiction, is another way of dismissing young people’s personal histories by focusing exclusively on their behaviour. Kirstin, a youth worker, wished for greater awareness around the effects of trauma on the brain and behaviour, stating, “There are a lot of people that don’t understand that this isn’t just a kid that woke up one day and decided to be bad, and they don’t just need a spanking or something; the get-tough thing doesn’t work, ever.” Angela, a youth worker with the police force, had on her caseload several youth from war-torn countries where they had experienced significant trauma, which
she felt underlay their behaviour. She explained, “I don’t think that they’re necessarily using crime as an outlet; I think they sort of fall into it: some of it is aggression from the trauma [which has] been normalized. Or maybe they’ve experienced so much violence that their response is with violence…and they’re not able to control that.” Although her comments are sympathetic, they evoke a sense of dangerous young people out of control and immersed in violence, yet there is little effort made to deal with trauma in ways that prevent violent incidences, before charges are laid.

Some police officers are finally becoming more aware of mental health issues. RCMP members told me that trauma is “epidemic” among refugee youth. Joseph related, “I can think of three right away, two of whom saw their fathers killed in front of them, one was blown up in a car, one was shot in front of him, the other is traumatized and has nightmares from seeing heads rolling down the drainage ditch in the war they were in.” He explained the effect of such experiences on youth, “They’re really struggling and they don’t know why they’re struggling; they can’t sleep, they can’t get a handle on it, they’re becoming more violent, more unpredictable.” Unpredictability and violence reference the irrational and dangerous sub- or non-human figure. Dehumanizing practices such as denying rights (Chapter 6), caging (Chapter 7), beating (Chapter 8), and rejecting personal histories must be contextualized within the perception of some refugee youth as violent, unpredictable, and irrational.

According to the information that the participants of my study provided, behaviours arising from trauma are often criminalized. Michael, a lawyer who specializes in immigration and criminal law, suggested that the criminalization of trauma is an example of how criminalization is directly connected to forced migration because people “redirect or…self-medicate and then get themselves in trouble either as a result of a downward spiral into addiction, or, as a side effect of drinking or using drugs they’ll engage in other types of problematic behaviour, whether it’s assaultive behaviour, property theft, or drug trafficking.” Robert works with people suffering from mental illness in the criminal justice system. He told me that people “from the most war-torn and politically unstable countries where they have lost family members and worse, are over-represented in the criminal courts.” Susan, who works for a social service agency, noted that among the young people enrolled in the
gated programs her organization offers “over 90% have mental health issues.” Chan and Chunn refer to those who are both mad (mentally ill) and bad (criminalized) as racialized “dual deviants” (2014, 47). Disability intersects with race, class, age, and gender to produce an irrational, violent body requiring control and punishment. Mental illness, which also implies a degree of dependence, precludes recognition as fully human because of the presumption of the independence, autonomy, and self-containment (of one’s inner savage) of the ideal human figure. The treatment of dependent, irrational beings without a voice provides the blueprint for the treatment of animalized humans (Deckha 2010; Kochi 2009; Patterson 2002) such as the criminalized refugee youth who participated in this study.

A youth PO, Suliman, related the story of a 14 year old refugee from Iraq who had been Tasered by police. He recalled,

He was being violent towards his family and he hadn’t slept more than an hour or two a night—no REM—for nine months! He was just completely out of it and when they finally started doing some work with him they learned about the level of violence perpetrated on him by his own family to keep him indoors in Baghdad…There were dead bodies, decapitations, hostage takings, bombings every day…He had been in a camp in Syria but even there the level of violence was off the charts. But then to do it here doesn’t work because he gets charged with an offence.

The implication is that there is simply no other option apart from criminalization; however, the Canadian government knows who it is bringing, so this is a policy choice. In addition to violence, most of the criminal justice professionals I spoke with referred to the refugee youth they work with as having “low IQs;” in other words, they scored low on standardized tests designed with middle-class North American males in mind. As suggested in Chapter 2, the idea that Africans exhibit lower intelligence than people of European origin draws on historical myths from the era of slavery and colonization which have been reinforced by some contemporary scholars of race (e.g. Herrnstein & Murray 1996; Milmo 2007; Rushton 1995). The construction of youth as have low IQs contributes to the perception of racialized youth as lacking in rationality, and therefore requiring control and containment. However, hearing what youth have to say and valuing their knowledge as important could lead to different conclusions and outcomes.

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29 In order to be accepted into a gated program, a convicted person must be referred to the program as part of their sentence. Gated programs are provided under contract from BC Corrections, MCFD, CSC, RCMP or VPD.

30 Settlement professionals did not make this claim.
Dismissing refugeehood and criminalizing trauma entails a focus on offence rather than on offender characteristics. There may be some sympathy among individual criminal justice professionals for a young person’s situation, but behaviour is still criminalized and in this way structural factors are externalized onto the bodies of refugee youth. For example, police officers and lawyers explained that there is no discretion for violence: charges must be laid. In Dani’s case (he hit his mother) charges are going forward even though his mother does not support the charge. He explained, “Even my mom wants to see me, so I’m just being charged for the safety of the citizens of Canada...I’m just being feared right now.” Suggesting that youth should not be criminalized is not the same as suggesting that there should be no consequences or that violent behaviour should simply be ignored, but consequences do not have to entail punishment and lifelong stigmatization (which will in turn influence employment and housing prospects, among others).31

If, as discussed in chapter 3, criminalization exacerbates the problems it is ostensibly meant to address, what does criminalization accomplish? I suggest that it is performative of humanist figurations and identities and plays an important role in delimiting boundaries around the ideal human figure. Accordingly, this section outlined some of the ways in which the denial of refugee youths’ knowledge, voice, and experience dehumanizes the criminalized refugee youth I spoke with by denying them defining human qualities. As dehumanized beings, they align with the category of the animalized human. Dehumanization is part of a humanist performance in that it produces a subhuman/animalized figure lacking in personality, knowledge, history or culture against which “real” humans may be defined.

5.3 Who Can Speak?

This section looks at the lack of opportunities for young refugees to talk about or work through their experiences and the accompanying unrealistic expectations of youth in

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31 The image of a young man striking his mother raises disturbing questions about patriarchal gender relations and understandings of masculinity and I do not want to gloss over this important issue. However, given the diversity of cultures from which my participants arrived I could not do justice to the many forms of masculinity that characterise those varied cultures. Although there is a large body of literature on constructions of masculinity in the North American context, I hesitate to apply those understandings to the behaviour of young men from other patriarchal cultures, even if they arrived to Canada as children. This is not to dismiss violence against female family members as simply an aspect of Others’ cultures that requires no further analysis, or to suggest that it is acceptable behavior in any context, but to acknowledge the diversity of masculinities around the world with which I am not familiar and to which I could not do credit in the space of this dissertation.
social service programs. My focus is on the effects of not hearing young people’s concerns due to the absence of programs that would provide refugee youth with a chance to share their story in a safe and respectful environment, thereby devaluing their knowledge. Following Seshadri (2012), I suggest that denying them a chance to speak is dehumanizing because it enforces muteness and eradicates language, a defining human quality. Through this process, the youth I spoke with are objectified and denied human subjectivity.

Theresa, a youth worker, reflected that youth are frequently spoken about, but their voices are rarely heard. She explained, “The quality of the information that they will provide will fundamentally change everything. But they are not listened to in policy; it doesn’t happen.” Instead, decisions are made about their lives by middle-class policy makers, most of whom are also White (Treasury Board of Canada 2016). Moreover, the personal and cultural histories of the youth I spoke with are erased by policies that claim to treat everybody in the same ways, entrenching existing inequalities that lead to different outcomes. Patience, a settlement worker, emphasized that while there are programs for adults coming from refugee camps to explore their experiences and expectations of life in Canada, “the children are left behind...There are no programs for older kids to focus on their needs and asking them what they have been through and allowing them to air out what they’ve been through in the refugee camp. That is a huge gap that is needed to be filled...It’s a cry for help!” She added that her agency had at one time offered a program for youth which was canceled due to lack of funding. She stated, “It’s the most needed program and it’s the one that is not funded...So many things are taken for granted and [refugee youth] can’t just enter those programs that were made for people born here, so they end up not doing anything—and continue to be in trouble.”

Ali, who provides settlement services to young people, agreed,

There’s no space just for refugee youth to feel connected and belonging without having to fear to tell their stories without hurting anybody...[Other people] can’t understand fully some behaviours or emotional level or stress level or reflections that the youth might have...A lot of the time youth say that they don’t feel comfortable talking about their experiences knowing that other people have not gone through them because they were refugees, stigmatized, and sometimes criminalized.

Anna, a settlement worker, asked, “Why do so many youth get involved with gangs and with crime? It’s because you find people that you belong with; you are accepted for who you are:
somebody unique. [You go] from being nobody to being someone, right, but then you are in it.” Recalling Brown’s “ghosts in the multicultural machine” (Chapter 3), Anna emphasized,

People want to belong; people want to be seen. So many people are never seen—they are never acknowledged—they are just ghosts walking in and out of places. They come here with histories that no one will ever hear because people don’t want to hear, because they don’t care, and they know that…A lot of times joining gangs makes a lot of sense: ‘I’m not accepted here; a gang life is dangerous, sure, but it gives me the comfort [because] I’m talking and I’m being heard.’

Clearly, providing a space for young refugees to share their experiences is not a funding priority. I suggest that the reason for this policy decision is linked to the dehumanized status of those whose voice is being denied. Silencing the criminalized refugee youth I spoke with deepens their dehumanization.

According to the people who took part in my study, instead of listening to refugee youth, the patronising attitude in many programs is ‘we know what is best for you.’ A settlement worker, Anna, suggested that too often program designers have not considered how their program will meet the needs of those they seek to enroll, “If you are asking someone who’s coming from a triangular framework to fit in a box, it’s going to fail…I’ve seen a lot of programs that are like: ‘We know what you need…Just sign here, here, and here,’ and then the person doesn’t go.” Sam, who works with people with adaptive and developmental ability issues, described a similar problem, suggesting that many social services are crisis driven, “‘You’ve been kicked out and you need a place,’ or ‘You’re in a health crisis we need to fix it.’ And again, let’s be clear on that: ‘We need to fix it,’ not you taking ownership, but professionals need to come in and fix it and you go off bright and shiny never to be broken again.” He emphasized that this strategy cannot work because when people feel powerless they may engage in self-injurious behaviour. He continued, “If someone is in a wheelchair, we’re not going to ask them to use the stairs. If someone has developmental or adaptability ability issues and we have the same expectations of them as of anybody else, it’s not going to work.” These conditions amount to a denial of two core features of humanity, namely autonomy and independence, and therefore are dehumanizing.

Access to services often requires the rehearsal of particular storylines regardless of individual circumstances. Based on her experience working in federal institutions, Kirin told me, “The way that the system sees it is that, ‘We know what’s best for you.’ …As opposed to
allowing that person to make a decision for themselves: ‘Okay, this is what you can access; what’s going to work for you?’ …Or let’s say with refugees and immigrants they might have a language barrier.” She added, “Also, it’s a White program and a White classroom. Even the ideology is very Westernized so they may not identify with those values…and in order to promote change you have to speak in a way that’s going to resonate with that person.” Sam, who works with people experiencing developmental or adaptive ability issues, illustrated,

One of the refugee individuals I was working with...had pretty significant developmental challenges plus gang-related, plus substance abuse, plus mental health, plus everything else…He couldn’t follow a probation order to save his life. Treatment was almost a complete non-starter because, not even taking into consideration the cultural bias of middle-class treatment programs, if you look at motivational interviewing or 12 steps or any of those treatment programs, you see basic assumptions that [are] utterly useless for people with adaptive issues if they don’t understand consequences. So you go to these sessions and you’re made to feel dumb because you don’t get it; the system isn’t adapted to your needs but you’re trying to get along in a group, so the outcomes are either, ‘Nod and say ‘yes’...Or they get kicked out because they’re not showing up or they’re ‘not taking it seriously.’

William, who works in the SWIS program, summarized, “It may not be a matter of lacking services but rather a problem of services not meeting the needs of the people who are involved in criminal things...They may visit once and never come again because they will see that ‘This will never help me.’” Rather than human subjects with valuable knowledge, the criminalized refugee youth I spoke are produced as objects of knowledge who lack autonomy and about whom decisions are made. The devaluation of their knowledge is dehumanizing because that is the way that non-humans are treated. Objects provide data and raw material whereas subjects provide knowledge and theory. The result of these processes is the production of the animalized human figure.

The provision of counselling is one way to enable people to tell their stories, acknowledge their value, and work through trauma. I asked Kirin, who works with men in the federal system, whether counselling was available inside institutions. She explained that there is no one-on-one psychological counselling, even if someone commits murder or is suicidal, unless it is attached to a risk assessment. However, she emphasized, “This is not an assessment in terms of; ‘Let’s figure out what’s wrong with you so we can give you what we need;’ it’s a risk assessment to inform decision-makers about whether they should be let out or not.” Kirin also mentioned that if somebody is only serving two to three years inside then
there is not enough time to attend therapeutic programming in any case (due to institutional time lines). Two years would offer sufficient opportunity to attend therapy if it were prioritized by the system.

Kirin elaborated on what happens in the federal system. She noted that apart from a “quick ticky box” form, there is no mental health assessment and therefore mental health issues are under diagnosed and people fall through the cracks without receiving the attention they need. Seeing my surprise, she stated, “If you think the system is going to actually help you to get a diagnosis so you can get access to services when you get out—no, that doesn’t happen!” Her response goes a long way towards explaining James’s situation. I realised that I had expected that the criminal justice system would help inmates overcome their difficulties, but I learned that instead the system reinforces problems. Now I see this as a way of producing and reproducing the human’s subhuman Others by defining whose body, knowledge, and well-being count.

Regarding community mental health services, every single professional I spoke with complained about the inadequacy of current services. Kirstin, a youth worker, emphasized, “The amount of social isolation, suicidality, self-harm, anxiety, depression, and other issues that are out there, there needs to be more mental health support because there’s a long waiting list.” Even while on probation, counselling can be hard to come by. Susan, whose agency provides services for convicted youth, told me, “By the time you call them up, the issue may have already resolved, and not in a healthy way.” Sunny, a former family worker, pointed out that those who implode tend to be ignored, while those who explode are criminalized. For example, Dani recalled that he was depressed before the assault on his mother, but kept it inside. He said he dealt with it by playing video games and becoming “deathly quiet” and therefore nobody noticed what he was going through. As Dani’s story shows, without help, emotions can spiral out of control. Lisa, an RCMP officer, suggested, “For boys in particular that aggression just escalates until you get these very angry teenagers.” Therefore, Dani insisted, “You should always check on refugee kids. Even if they’re pretending really hard that nothing is wrong, there is something there and you need to talk to them to find out what it is.” These comments suggest the need for greater support and assistance for refugee families when they arrive in Canada and at least for the first few years at school. Several months after the assault Dani was still not receiving counselling or anger
management help. Denying this support places refugee youth in the set of irrelevant, unimportant, and undeserving bodies that do not matter.

Robert, who provides services to people with mental illness in the criminal justice system, connected these ideas to funding policy, which does not prioritise mental health. Similarly, Jennifer, a settlement worker, pointed out that, due to lack of services, many youth do not receive a diagnosis; without a diagnosis, there is a lack of statistics to support funding proposals to provide additional services. These are policy decisions that marginalize young people’s voices and experiences. Addressing mental health concerns is simply not a priority. I suggest that the decision not to provide adequate funding to meet the needs of people suffering from mental illness is due to the pervasive humanist conception of people with mental illness as less than human because they lack rationality, autonomy, and self-control; they do not count. Completing the vicious circle, criminalization contributes to further animalization.

Great Expectations

Because there are few to no opportunities for young people to share their counter stories, and thus little understanding of their individual circumstances, young people meet with unrealistic expectations about their behaviour when they attempt to access social services. Patience, a settlement worker, shared the following anecdote of what she described as a “typical example.” The story concerns a single mother, a young person now in her twenties, who had fled war and ended up alone in a refugee camp in Africa after being tortured and separated from family members. Living in a refugee camp by herself as a youth, she became pregnant and had two children. However, her past remained with her. Patience explained that in conversation, she would lose focus and “drift away.” In the program the young woman was enrolled in, the staff complained about her to Patience, saying, “This person is not serious; I think we need to exit her. She doesn’t seem to care about being here.” Patience recalled, “I told the staff, ‘Leave her in the system until the time will come when she is able to open up; she’s just not there yet.’ But for this Canadian counselor, if the client doesn’t follow the rules or fit the profile then—too bad—file closed. That is the system.” She concluded, “What I’m saying is that you need somebody who is able to understand where these people are coming from.”
Professionals and youth also described the challenges for people who do not have strong written or spoken English. For example, Sam, a mental health worker, explained that applying for income assistance requires completion of an online application. Recalling a Somali client who could neither speak English nor use a computer, he wondered, “How is he going to sit down and answer 70 odd questions on a computer? It’s all ticky boxes and text, and none of it is verbal—and this is before they even create a file.” Liberal ideology assumes that everybody is the same, thereby ignoring colonial histories and current structures marked by race, class, gender, and other inequalities. Ignoring existing inequalities entrenches them even further and contributes to processes of dehumanization. Sam pointed out that another problem with income assistance is the expectation that people will find employment. The process becomes “a dance that people have to do.” He added, “Sometimes people don’t even understand the questions, but they’re nodding and saying ‘yes’ when they’re asked if they’re going to do x, y, z…So it channels people into specific responses and as long as there’s a cheque involved people are going to respond in the appropriate way to get a cheque.” He concluded, “Ultimately that puts people at an extreme disadvantage when they’re agreeing to do things that they don’t have the capacity to do. When they don’t comply, in extreme cases they can get shut out of income assistance entirely. And then the only choice is to go off the grid. Hopefully they have family to support them but in a lot of cases more marginalized people don’t have anyone.” Being forced “off the grid” implies restrictions on access to societal resources and is also an aspect of the discourse of disposability explored in Chapter 7.

The youth who took part in this study exhibited a range of abilities with written and spoken English. Only Peter had finished high school and he had done that in Sudan. All were English Language Learners who did not speak any English when they arrived in Canada. Most struggled with literacy and the way that some young people painstakingly scratched their names on the receipt for the honorarium was heartbreaking. Fayyad told me that he does not even have a signature and that he signs differently every time. Fayyad explained how expectations around literacy resulted in him having to leave an addictions program. The problem was the requirement to keep a journal. Fayyad explained that he had met all the other program requirements, but was asked to leave. He recalled, “I had a counselor [who] kept giving me ultimatums, ‘You have to write a journal every day.’...I did everything else! It
was only the journal. So one day he’s like, ‘I have to ask you to leave the program,’ because he said I’m ‘not open’: I didn’t do the journal… I was devastated.” Fayyad’s reality of illiteracy was deemed irrelevant and he was discarded due to his lack of conformity with expected norms.

This section revealed a number of ways in which the criminalized refugee youth who participated in this study are denied a voice and their experiences devalued. Lacking a means of expression, their stories are ignored and their knowledge is disregarded. There could be extensive orientation programs for youth who are newly arrived but there are not; this is a policy decision. The production of mute bodies is an outcome a humanist performance that defines whose lives and experience matter. Below I investigate some of the effects of this form of dehumanization.

5.4 Who Will Listen?

This section looks at what happens when teachers, school administrators, social workers, and POs attempt to squeeze young refugees into processes designed for people born here and then dismiss their explanations for their behaviour when they cannot fit the assigned parameters. I begin with what happens at school because that is the first institution that young people encounter when they arrive.

School Authorities

As in the criminal justice system, school policy tends to overlook important features of refugee backgrounds. For example, as noted in Chapter 3, scholars have identified the problems associated with the placement of young people in school by age rather than ability (Wilkinson et al 2014). Meanwhile, an ideology of individual responsibility for well-being facilitates the blaming of youth for their disadvantage. Rather than looking at the poorly funded education system, for example, early school leavers (“dropouts”) are framed in the press in terms of individual deficits rather than structural features of society or schools; they are seen as choosing to become a liability to themselves and society and the image is overwhelmingly of a negative or deviant youth that is a drain on national economic resources and a threat to social stability (Ellsworth & Stevenson 1994).
Amran, a settlement worker, explained that when youth who grew up in refugee camps where there was no schooling available and who therefore do not know how to read or write, enter high school, the pressure and embarrassment often lead to dropping out. She concluded, “The street will take them and they will enjoy it, because that’s the only place they have to go.” I asked Hamdi whether anything could have happened in his first year in Canada to prevent his involvement in the criminal justice system, and he told me that being able to work or go to school would have made a difference. Since he had arrived at age 17, I wondered why he had not gone to school. He explained, “I went there but it was too difficult for me, so I couldn’t handle it. I came from a refugee camp where there was not even basic education for me, and they put me in Grade 11. I wanted to start from the very bottom but that option was just not available...and I stopped going.” Daniel told me, “I went to Grade 8, Grade 9, Grade 10, and then I started fumbling...I started drifting away from school. There were two things: I was having a hard time with school and then me being African American among the other kids.” I suggest that creating the conditions where some of the youth who are most in need of education cannot succeed is a way in which the education system performs the animalized figure that provides the human’s requisite Other.

Since, as noted above, violent offences always result in a charge, schoolyard fights result in arrests in the school ground and criminal records. Daniel described what happened after he was arrested for a fight with a classmate over a racist comment, indicating that there may exist options other than criminalization,

I was like, ‘Am I going to jail just for punching a guy in the face?’ and they’re like, “Well, not necessarily, but we’re going to read you your rights, we’re going to call your parents, and for now you’ll be expelled until you have a meeting with the principal and the school board and the whole system and blah, blah, blah, and we’ll see if you can come back again.’ I was like, ‘Wow, that’s a long process, man. We could just fix it right now: you just tell me, ‘Hey man, you just don’t ever do it again,’ and tell that guy not to be racial again, ‘Shake hands, you go this way you go this way and it’s all good.’

When Daniel told me that there had been no consequences for the other person involved, I suggested that might make it appear as though racism was acceptable. He exclaimed, ‘That’s exactly what I told the principal! I’m like, ‘So it’s okay for him to say whatever he feels like and I’m just supposed to sit there? …If I do something about it then maybe he’ll think about it next time.’ And the principal was like, ‘No, we don’t tolerate violence; that’s the school
policy.’” In other words, some kinds of violence (e.g. racism) are tolerated, while others (e.g. physical violence) are punished with permanent stigmatization. Although violence is hardly an ideal response to harassment, Ashraf suggested, “When you can’t defend yourself with your tongue, then it’s difficult.” It is worth noting that while the involvement of the youth I spoke with in schoolyard violence may be to some extent attributable to their experiences of violence in the past (e.g. during armed conflict, flight or in the refugee camp), the impact of racial abuse, insults, and name calling is also significant, as Daniel indicates above. For example, Gilligan (1996; 2001) found that among incarcerated African American youth violence frequently emanates from attempts by young people to ward off feelings of shame and humiliation.

Indeed, racism came up in almost every interview. African youth in particular felt the weight of stereotypes based on gangsters, rap stars, sports stars, and drug dealers. John described a fundamental challenge, “I’ll tell you something about refugee kids: they can never identify with their surroundings when they get here...In elementary school is where it starts because there you face racism...And when you get to high school it just escalates.” He elaborated his experience, “In the grade school I went to, all the immigrant kids stuck together...We didn’t know any Canadians and they didn’t know us either...And so identifying with them [was] almost impossible.” John drew a direct connection between typically dehumanized identities and racism stating, “It was going through that in high school that really shaped my older teenage years because now I don’t care, right—I’m a refugee, right, a criminal, right, a drug dealer, I’m this, I’m that. This is now my identity, so that’s what I have to live up to.” Peter told me, “If I go to a social setting, everybody thinks I’m a dealer. They come up to me, ‘Hey brother, do you have some pot?’...It surprises me that the whole spectrum of people from all walks of society have the same way of thinking...It’s really challenging.”

Hassan also experienced racism from his peers. He described how the other kids at school saw him, “On TV, all the rap videos, all the hip hop, the sports celebrities, are African American, so [kids at school] see me and they’re like, ‘Oh, you must be like that.’...[One day] I was in science class just doing my thing and this kid just randomly threw a pair of scissors at me and I was just like, ‘I’m done, we’re on!’ ...He stood up and he said, ‘I’m not fighting you because you’re Black.’” I asked Hassan what he thought this meant, and he
replied, “He has these ideas about how Black people fight and he doesn’t want to do it. That was the first fight I’d ever been in. I just snapped; I was just like, ‘Okay, this is what you want me to be, I’m going to be that; I’ll portray it.’” He added, “There were a lot of nicknames...I can say it got bad. Sometimes they will come up with really weird names like Sammy Somalian, or when the whole Muslim thing came up, that probably took a bigger toll on me than anything else: it’s like, ‘Oh, you’re a Muslim and Somali;’ so now I’ve got two stereotypes on me.” Anna, a settlement worker, shared her daughter’s experience, “One of her classmates when they were 14 told her, ‘You know, us White people need to stick together.’” These narratives corroborate previous scholarship demonstrating the existence of racism in Canadian schools and its harmful effects, which include driving some young people to drop out rather than be subjected to humiliation, exclusion, and abuse (Dei 2005; James 2012). Further to this, it was concerns about racism in schools that prompted the establishment of an Afro-centric school in Toronto in 2008 (Macleans 2008).

However, the youth I spoke with emphasized that when they told their teachers about racist taunts or incidents, their claims were dismissed, or they were told to ignore them. In December 2014, I attended a conference for refugee youth in Vancouver. The youth there also insisted that their complaints about racism from peers were dismissed by teachers. The Hon. Jean Augustine was in attendance and urged them to remind their teachers that one of the premises of anti-discrimination is that “to do nothing, is to do something.” One thing that permitting and perpetuating racism does is enforce the boundary between who matters and who does not, which fundamentally is about who is fully or less than human because racism is an assertion of subhumanity due to the mutual implication of race and the ideal human figure.

Anna, a settlement worker, suggested that these issues may be traced back to a lack of historical understanding. She stated,

The problem is that colonization does not enter the conversation...If [people] understand the history of this country, then the story will be very different because then we are all coming from a similar perspective. At school if you are different there’s something wrong with you. But if we start looking at what is similar among us, you know, ‘Why are we all here?’ it will shift.

From her perspective, acknowledging the existence of ongoing colonial relations could prevent some of the alienation and desperation that can result in criminalization, “All I hear
about is intervention money, and I’m like what about preventative? Starting from kindergarten, we need to have those conversations. But the type of conversations [i.e. around race, gender, and colonialism] that need to happen make people uncomfortable.”

The choice not to have these conversations is a policy issue; while in the teacher education program I observed this deliberate obfuscation firsthand. However, permitting these conversations could go a long way towards reducing marginalization, disengagement, and criminalization. Rejecting racism and colonialism as relevant factors in analyses of the situation that young people find themselves in serves to naturalise a particular human figure and the racialized and classed distinctions that rely on it, by leaving them unexamined. As long as the human/nature divide remains in place, the fragility of the human category will demand constant policing in order to maintain it. As noted in Chapter 3, schools play an important role in dismissing the history of colonialism in Canada and the contribution of Africans and other minorities to Canadian nation building. The erasure of that history has the effect of constructing African immigrants as newcomers with no history in Canada or right to be here (Puplampu & Tettey 2005; Thobani 2007), and elides the significant role of Canadian corporations in causing forced displacement overseas (Ghazvinian 2007; Gordon & Webber 2009; Macklin 2003; Mining Watch Canada 2007; North et al 2006; Petrou 2010), implying that refugees should be grateful for the opportunities they have here. Thobani (2007) suggests that silencing others and controlling representations of the past are key means by which nationals who embrace multiculturalism can detach themselves from racism while benefitting from the effects of past racist policies. The displacement of racism enables contemporary nationals (coded as White, citizen, subject) to be constructed as tolerant, generous, and respectful of diversity. As such they are deserving of rights and protections. Meanwhile, silencing certain bodies also reinforces a species boundary among humans by defining what kind of bodies deserve consideration.

Given the practice of placing children in grades by age, knowing young people’s ages is critical. However, some refugees come from environments where date of birth is difficult to establish. Ages are assigned in different ways by family members or officials. During interviews I was told of numerous cases where the official age of a person appeared at odds with their physical characteristics. Nasim admitted that Issa is three years younger than his documents indicate. However, Burhan’s story was unique because his birth date was not in
doubt until elementary school staff became concerned about his behaviour. He was removed from elementary school and transferred to high school when school authorities began to doubt his age, even after bone density test indicated he was the age that he and his parents claimed he was. After that, he said, “Everything started going downhill.”

Burhan described how his troubles began when he was forced out of elementary school and into a high school environment for which he was not prepared. He explained that the situation was made worse by the fact that he was brought to school and picked up by taxi. As a result, he stated, “People looked at me in a different way, like messed up, like, ‘This kid was expelled from elementary and brought here.’ And when they saw me getting dropped off in a cab and picked up, people started treating me different and stuff like that, and that’s when I started going the wrong way.” Burhan began to skip class. He continued, “When they caught on they were like, ‘Oh, we can’t trust him; he’s trying to trick the school system,’ but they didn’t know the reason behind why I was doing that.” I inquired whether anybody had asked him how he felt about what was happening, and he replied, “No, they didn’t. They would only tell me what I’m doing is wrong; they would never ask me why I’m doing these things. So when I started skipping then I started mixing with the wrong crowd, I started smoking weed, I started doing things that weren’t right…Eventually I was 13 and I had 12 charges.”

Anna, a settlement worker, shared another anecdote that illuminates how young refugees’ stories are negated. In this case a youth was about to be expelled for frequent lateness when all he needed was a bus pass. She explained,

All they had to do was just ask, but it never occurred to the worker…It was like, ‘This youth is not engaged, he’s not interested, he’s taking somebody else’s spot, we are making every effort, he’s always late, dadadadada.’ We sat down, got an interpreter, and he said, ‘I don’t have a bus pass so I walk,’ and that was it. It is $2.75 each way; that’s a lot of money for the family, and the schools can afford bus passes [but] you have to really advocate.

These anecdotes underline the ways in which institutional policy tends to blame and eject some young people rather than listening to their stories, finding out what they need, and providing effective support.
Probation Officers

School staff are not the only authorities who dismissed the stories of the criminalized refugee youth who took part in this project. Probation Officers also frequently disregarded their explanations. Many of the young people I spoke with described very poor relations with POs. For example, Raffi’s response to my question about his relationship with his PO was representative, “He never listens to me.” Young people feel like they are disbelieved, disregarded, and pre-judged by adults who label them permanently based on a past action, when what they want is understanding and acceptance for who they are. Youth workers also emphasized the importance of trust, which was frequently lacking. Hassan told me, “I didn’t really know how to trust anyone because everything I said got me in more trouble.” Speaking about his PO, Dani related, “No matter what I said they just didn’t believe me.”

The YCJA provides significant discretion for youth justice professionals, which increases the importance of ideological bias among POs, 88% of whom are White (Corrado et al 2010). While I was conducting this research, many people in the system acknowledged to me that racism was a problem among POs, with some names coming up repeatedly. In other words, professionals and “offenders” alike were aware of overtly racist POs, yet those POs continued to practice. Peter offered the following, based on his time in federal custody,

Being a different race is another issue that I had to deal with. There was always the idea that the Black guys are the ones that have the drug connections…If there was an incident inside that somebody got stuff or drugs, the POs would say, ‘Okay, you [Black] guys must know who has the drugs on the unit.’ How do I know! In fact, some people actually said, ‘Oh, that Black guy, we shouldn’t tell him anything because he may come and beat us up and take it or something,’ and the system meanwhile thinks that I know. So you get caught in between!

Since racism is a form of species thinking (Razack 2008; Deckha 2006), the perpetuation of racism also sustains the human/non-human binary.

One of the major complaints that the youth I spoke with had about POs is that they do not clearly explain the reasons for their actions and judge young people only on the basis of a past incident, rather than listening to their explanations. Burhan told me,

If I’d known how [the system] works I would have done totally the opposite, but it wasn’t given to me that, ‘If you do this, this is what will happen the first time, but if you do it a second time, this is what’s going to happen. And if you continue it gets worse.’ …The PO wouldn’t really explain it; all they would say is, ‘Okay, you are released on these conditions. If you don’t abide by these conditions then I’ll have a
warrant,’ and that’s it. So I’m like, ‘Okay, there’s a warrant but are they going to be able to find me? Because you’re a kid, right, you think you can beat them around the bush, that you are invincible.

Not clearly explaining consequences to young people is an aspect of negating their story because it denies their reality as young people and newcomers who do not understand the system here.

Burhan elaborated the frustration that youth feel,

My [first] PO was really bad...Like if I missed a day of school she would say, ‘Oh, he was out smoking weed with someone.’ She didn’t know what I was doing, so she would just assume things and then it would go to court and I’d have to wait for it to go to trial to tell my side of the story. And then they may not believe me...I was with her for almost three and a half years. [During that time] I used to get out [of jail], then I would just be back in the next week. So in one month I’d go to jail four or five times...The way she saw me it was like this messed up 12 year old that doesn’t care about anybody, doesn’t care about what you say, doesn’t care about the law or anything.

Burhan explained that instead of informing him ahead of time that he had breached his conditions, his PO would have the police pick him up from the lobby when he came for his next appointment, which significantly eroded trust between them. Burhan described another incident, “Once she sent me to a violent offenders treatment program and when I went, the two doctors were like, ‘When we talked to you for the past hour we don’t think you need it; we don’t know why your PO sent you.’ But then when I went back to my PO she put in a report that [I] didn’t complete the thing and was withdrawn from the course.” Sam summed up, “Some POs are very dogmatic and very referee-ish, very rule based. That’s how they approach life and that’s how they approach their work.”

Burhan concluded with some advice for POs and social workers,

Basically, don’t judge the youth on what you see and what you read on the record; try to get to know them for yourself, like [my new social worker] did with me...When she got to know me, she’s like, ‘Honestly, when I read your [PO’s] report I didn’t want to come near you, but I like hanging out with you.’ And most of the cops that arrested me back then were like, ‘The stuff we read on our computer, we just want to take you to the back alley and shit kick you,’ that was the exact words a cop said...But he’s like, ‘But now when I’m here talking to you, you are so polite and so respectful that I don’t believe any of the things it said on the computer.’ So that’s really not fair, the way they label you for just one little thing you’ve done...Yeah, maybe [a young person has] done a couple bad things in their life—try to work with them so they get
through it and they know what’s good and what’s bad for them. By you treating them so bad, it’s not going to make them better; it’s just going to make them worse.

Similarly, Dani, charged with assaulting his mother, told me, “My bad luck is that my PO is a mother also, so no matter what I do, what she sees me as is basically just a violent person.”

Some POs see themselves as fundamentally different from the people they work with. Peter related an anecdote from his time in federal prison. His PO’s husband had been caught at the border letting in trucks with narcotics and been sentenced to six years in the US, but she insisted she had known nothing about it. Peter explained that when he tried to use this example to demonstrate how he could know nothing about the other guys using in the cell when the IPOs believed that he had information, she told him, “You committed a crime so we are two completely different kinds of people.” In other words, Peter is a criminal, a despicable human subspecies, while the PO is a real human whose word has value.

Addiction is another area in which the realities of the criminalized refugees I spoke with are overlooked. Peter, who struggled with an addiction for many years, explained, “Inside they worried more about my immigration status. I came as a refugee; they said I am destroying the system, I’m costing the system money, so I’m the problem. There is no looking into, ‘This guy has addiction issues; how did he end up like this?’ Nobody cared about that.” He added that if he tried to explain to a PO the effect of his upbringing in a very different culture he would be accused of “not taking responsibility.” “You see,” he told me, “Right there is a clash because there is a misunderstanding.” From Peter’s perspective,

The way the programs and decisions are made are not to really help what’s going on with the addict. It’s just for the criminal system to...show the public that these people are locked up, but nothing is really addressed, especially: where does this person come from? How did they start using, and why do they use? And, how can we help him to stop?

Peter described being released on parole, statutory release, and probation straight into temptation on the DTES. Inevitably, he would be triggered, start using again, and end up back inside. His story highlights not only the lack of consideration given within the criminal justice system to what some people need in order to succeed, but the way that the system sets

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32 i.e. some external event would produce memories, behaviors, emotions or thoughts leading to anxiety, panic or despair, thereby jeopardizing recovery.
some people up to fail, leading to further dehumanization and ultimately producing the
dehumanized figure the system supposedly manages.

Social Workers

Criminalized youth also described poor relationships with MCFD social workers,
confirming the RCY’s (2014; 2015a; 2015b) findings described in Chapter 3. Abbas’s
comment was typical, “My social worker doesn’t help me! But I can’t switch because it’s one
social worker per family.” Similarly, Hassan told me, “I had three social workers at the same
time, but with all of them I felt that they weren’t my social worker—they were more my
dad’s—because everything I did, they told him.” Hassan had a lot to say about MCFD social
workers based on his extensive experience. When I asked him if he had any advice for social
workers, he responded, “Social workers? Oh, yeah! Listen to the kids, like, straight up,
actually sit down and talk to the kids alone. Do not talk to their family and be like, ‘Okay,
does this happen?’ Because I don’t think that your parents are rightfully going to be like, ‘Oh
yeah, I knocked this kid out. Honestly, yeah, I just beat him up.’” He also complained that
when he would show the social worker bruises and scratches from beatings and altercations
at home and ask for help, she would tell him that she had spoken to his brothers and sisters
and they had told her that nothing happened. Hassan told her, “When somebody comes into
your house that you don’t know and they’re asking, ‘Does your dad hit you?’ then you are
definitely going to say ‘no,’ because if you say ‘yes,’ when they leave you’re gonna get it.”
He concluded, “I would say [to social workers]: just get a proper handle on the story or the
background [because] she knew that something was going on, but I felt that maybe she didn’t
really want to try to deal with it.”

Hassan also told me that, against safe house rules, the social worker gave the phone
number and address of the house to his father, who would threaten to come to the safe house
and cause problems if they did not send his son home. He related that when that happened,
staff would ask him to leave saying (ironically), “We can’t keep you here; it’s not safe.” As a
result, Hassan ended up homeless. He explained, “Even in the safe house they knew my dad,
and when they talked to him they felt threatened.” On other occasions, his father would kick
him out of the house but the safe house would not let him stay there because his social
worker insisted that he should be at home. He related,
How would you feel if you got kicked out of your house and you go to a safe house and they deny you because your social worker called and said you weren’t allowed to go there? They’re like, ‘Oh, your social worker called us and said you have to go home.’ So I attempted to go to my door, ‘Can I come in?’ ‘No. You have to stay outside.’ …I go back to the safe house and they’re like, ‘No, your dad said you can go home,’ and I’m like ‘I was just there and they said no!’ So I was just homeless. They’re just like, ‘Well, talk to your social worker, man.’

After all these problems, Hassan summed up, “I see it like some [social workers] just don’t really want to get involved even though they can see what is happening.”

This section demonstrated some of the dehumanizing outcomes of negating young people’s explanations. The effect of denying the experiences and accounts of the young refugees I spoke with is to dehumanize them by rejecting the worth of their stories and voices. The erasure of personal histories, the silencing of criminalized refugee youths’ voices, and the devaluation of their knowledge and experience, all of which result from policy decisions, perform the dehumanized/animalized figure by creating a group of people who are denied key human attributes. It is this figure against which the innocent, law-abiding citizen subject defines his superiority.

5.5 Conclusion

This chapter outlined the ways in which the criminalized refugee youth I spoke with are silenced and thereby dehumanized. By allowing or disallowing counter stories, decision makers define what counts as knowledge and whose knowledge matters; rejecting the stories of marginalized people solidifies the dominant White narrative as the “truth” (Atwood & Lopez 2014). It is an accepted norm that middle-class decision makers make decisions about how low-income residents may live, and that adults will determine the course of young people’s lives because working-class people and children supposedly lack rationality and the ability to self-govern (e.g. La Grange et al 1999). These assumptions can result in attempts to fit refugee youth into processes that were not designed with their needs in mind. When the young people I spoke with struggled, they tended to be blamed and punished for their failures and their explanations dismissed. These arguments underline the ways in which the refugee pasts and experiences of the youth who took part in this study were deemed irrelevant, thereby ignoring the world of experience that comes with being a refugee especially violence, time spent in a refugee camp, limited formal education, fear, lack of English, poverty, and
psychological trauma. Worse, trauma may be reframed in terms of the criminalized activity that it frequently impels. The consequence of these interlinked processes is the production of criminalized refugee youth as objects (of knowledge, of interventions, of punishments) rather than subjects. Their dehumanization arises from entrenched humanist species-thinking grounded in assumptions of normative humans as rational and independent. The production of the criminalized refugee youth I spoke with as animalized figures performs the human/non-human boundary by enforcing who may be recognized as human.

In the next chapter I show how the construction of the criminalized refugee youth I spoke with as objects of state humanist practices also enables the denial of human rights.
Chapter 6. Denied Human Rights

“Fundamental rights don’t apply to every person.” –Anna

“They are treated as secondary citizens, because they are no longer deserving of having their rights recognized—a lot of Canadians believe that: that they’re doing time [so] they should have no rights.” –Kirin

“For all its claims to justice for all, the liberal human rights project is premised on the classic liberal actor – unencumbered, separate, rational, and autonomous...It is an image of the self that depends on Othering and then domesticating or expelling those who do not conform to its parameters...Regardless of how much human rights discourse is modified, its organizing logic is one of exclusion (of non-humans) and as long as it continues with this logic, liberalism will always invite ranking among humans” (Deckha 2008, 266).

“Between the minorities and the citizens, the separation was really extreme.” –Daniel

6.1 Introduction

Drawing on Haraway’s and Deckha’s discussion of the human figure that underpins the notion of universal human rights (see Chapter 2), this chapter argues that the denial of human rights to the criminalized refugee youth I spoke with establishes their dehumanization by defining them as beings undeserving of rights meant for humans. As their designation implies, “human rights” are entitlements that apply solely to “humans.” Courts have considered whether chimpanzees, whales, and other non-human animals should be entitled to human rights (thus far, finding that they do not), with the key question being whether they are “persons” or “property.” For example, the Canadian Charter of Rights and Freedoms (CRF) guarantees rights to “male and female persons.”

Although personhood is normally contrasted with property, in a sense, personhood (defined as Whiteness) may also be understood as a type of property. In her investigation of the relationship between personhood, race, and property, Harris (2013) highlights how the benefits that accompany Whiteness have become a valuable asset that Whites seek to protect; insofar as the law protects these privileges, the law recognizes a “property value in Whiteness” (Harris 2013, 1713). Because slavery depended on racial identity, it became critical to possess Whiteness as the attribute of free human beings; Whiteness became the quintessential property for personhood. The law did not accord Blacks legal equality because “nature” had determined their degraded status. Rights were reserved for those with the
capacity to exercise them; this supposed rational capacity was contingent on racial identity which, as Anderson (2006) has demonstrated, arises from the human/nature binary. In contemporary times, the court’s reluctance to dismantle institutional privileges due to the extent of possible infringement on Whites underlines that White privilege is a property interest worth protecting (Harris 2013). Harris (2013) argues that the protection of the property interest in Whiteness is achieved through the colour-blind assumption that the existing state of affairs is neutral.

Disagreement continues over precisely which types of bodies deserve human rights. Building on these ideas, I argue here that the application of human rights performs the human/non-human binary: those who are denied human rights are, through that denial, engendered as subhuman or non-human. However, before turning to my empirical findings, I take a closer look at the profound implications of the “human” in “human rights.”

Human rights are “universal” in that they are supposed to apply to all humans. However, as Haraway (1989) showed, human rights conventions codified a particular view of the human as male, White, and professional. Thus, the application of human rights is far from universal (e.g. Deckha 2008; Esmeir 2006; Kapur 2006). In Canada, UN Committees have repeatedly expressed concern that African-Canadians face persistent barriers to the enjoyment of rights under the ICESCR (ACLC 2016). It would be easy to argue that this is simply due to racism, but I delve deeper to question why racism is so persistent and how it becomes meaningful in this context. Answering these questions necessitates uncovering the mutual constitution of racism and the discursive separation of humans from nature.

Since the figure of “the human” defined as the rational liberal actor serves as the critical indicator of worth and entitlement to rights, marginalized groups whose characteristics are at variance with the universal figure have struggled for recognition as human beings with value, dignity, and rights (Bryant 2007; Deckha 2010; Mills 2011). However, Ko (2015a) argues that when racialized minorities claim they are human, they are actually saying that they are like White people because of the way the human has been defined. In response to demands from excluded groups, legal frameworks have adapted to incorporate ever more humans into the category of personhood, yet the human (person)/non-human (property) binary persists (Deckha 2010). Although rights entitlements have been expanded to include enslaved people, women, and children, members of these groups remain
on the margins and are frequently unable to access rights to which they are theoretically entitled. By virtue of their race, class, gender, age, criminality, refugeehood, and ability, some beings are pitched into the subhuman category and then denied rights on that basis, thereby further reinforcing the species boundary. This is what I suggest occurs with the criminalized refugee youth who took part in this study.

Not all scholars agree with this analysis. For example, Esmeir (2006) questions the idea that the abandonment of persons beyond the law (e.g. through the denial of human rights or detainment in camps) dehumanizes people or constitutes them as less than human. She argues that these critiques reproduce an understanding of humanity as a status to be conferred or removed by law; for Esmeir, “nature” defines the human. She cautions against understanding legal status as constitutive of humanity, suggesting, “The more we think of humanity as a juridical status, the more dehumanization becomes possible” (1549). I appreciate her call to think about humanity in non-juridical terms that do not derive from colonial perspectives. However, I argue that humanity (personhood) is precisely what is given or taken away in the conferral or denial of human rights. Given the socially constructed nature of the “human” and the “animal,” the law plays a fundamental role in defining who is recognized as human. Following Butler’s (1990) insistence that there is no essential woman behind the subject called into being by the law, I reject the notion that behind legal personhood exists an actual human where that human is synonymous with Man.

My application of performativity theory suggests that the human is only real insofar as it is performed; legal processes are part of this performance. Performativity can provoke effects in others who may approve, reject, medicalise, pathologize or criminalize one’s performance based on whether or not it successfully reproduces dominant norms. This is what Salih (2007a) and Agamben (2004) are getting at when they suggest their concern is not to ascertain what a human is in objective terms, but to understand who is recognized subjectively as a human being. Seshadri (2012) suggests that the separation of the human subject of law from the lawless animal is the foundation upon which political violence and rights are established; the state exercises power over this separation, animalizing certain humans through vulnerability to violence and denial of rights, and humanizing others through the application of rights and protections. Based on the experiences of violence, rejection, silencing, and denial of rights that youth shared with me, I suggest that they are not
recognized as human subjects. This claim underlines the fragility of the human figure that stakes its definition on a boundary between nature and culture.

To suggest that “humanity” is socially constructed is not to assert that it is nonexistent or meaningless, but to expose the political interests which produce it. I understand humanity (species) to be one aspect among many (including race and gender) that make up our identities, and which take on variable meanings in different contexts. Species may offer a useful heuristic, but it is morally irrelevant. Further, Wolfe (2003) and Deckha (2008; 2010) caution that as long as the humanist speciesist structure of subjectivization remains intact, and as long as the institutionalized exploitation and killing of non-human creatures is taken for granted, then the discourse of species remains a ready-made symbolic economy available to justify the denial of rights to any beings on the basis of species, race, gender, class, age, ability and so on.

Ratna Kapur (2006) also unpacks the atomised liberal subject on which the human rights project is based and examines assumptions about an Other that must be contained in order to maintain the stability of the liberal subject. Like Deckha (2008), Kapur argues that the free, unencumbered, self-sufficient, rational, sovereign, autonomous subject who exists prior to social context cannot survive without the existence of an Other; in her analysis, this “dark side” is intrinsic to human rights. For Kapur (2006), the Other is the migrant, the Muslim, the sex worker, and the homosexual. Focusing on immigration and anti-terrorism law, she argues that through these mechanisms “we are declaring new non-humans, or lesser humans, as well as super-humans. These hierarchies and rankings are produced in and through the discourse of rights, which produces the human and social subject” (2006, 681). I agree with Kapur that this image and the exclusions it engenders are persistent and insurmountable because international law was fundamentally structured by the colonial distinction between the civilised and uncivilised based on ideas about cultural backwardness and racial superiority. To this, Deckha adds that the liberal human rights project is fundamentally exclusionary since it excludes all non-humans and non-persons. Consequently, human rights cannot be repaired, but must be replaced (Deckha 2008; Kapur 2006).

I found that the rights of the criminalized youth I spoke with were frequently violated; my research leads me to suggest this is because criminals, refugees, and racialized
Black/Arab youth inhabit the dehumanized category that by definition inhibits the extension of human rights. In this chapter, I employ a broad conception of human rights, drawing from the CRF, CHRA, CRC, and ICESCR. Specifically, I focus on the following rights: to be aware of and able to access one’s rights, to trial in a reasonable time, to interpretation/translation in criminal justice processes, to legal counsel, to non-discrimination on the basis of a criminal record, to not be racially profiled, to live with one’s family, and to housing.

6.2. The Right to be Aware of One’s Rights

Youth workers who took part in the study stressed the need for an advocate to ensure that the rights of criminalized refugee youth are respected, and frequently drew a connection between the inadequate orientation that refugees receive on arrival in Canada and their ability to access rights. For my informants, the policy assumption that newcomers will figure things out on their own which is favoured by middle-class decision makers, the vast majority of whom are White and male (Treasury Board of Canada 2016), amounts to a denial of rights because young refugees, who may not speak or read English well, are unlikely to be aware of their rights here. The lack of funding for advocacy positions must be understood in this context (Bulmash & James 2012). The result is the denial of knowledge of, and access to, rights for marginalized people, including the criminalized refugee youth who spoke with me for this study.

Rosemary, a youth social worker, emphasized how difficult it can be to navigate bureaucratic systems, noting, “What we find, especially with new immigrants, is that…you really need an advocate.” Kirin, who works for a criminal justice NGO also emphasized the need for advocacy, “It’s not easy to take on someone who is in a position of authority because you have so much to fear: ‘If I speak out then they’ll lash out, I’ll lose these privileges, there is this consequence that will happen.’ So a lot of them don’t speak out of fear.” She added that people convicted of crime “are treated as secondary citizens, because they are no longer deserving of having their rights recognized—a lot of Canadians believe that: that they’re doing time [so] they should have no rights. Not a lot of people even care.” As animalized humans (Deckha 2010) criminals may be legitimately denied rights which are
reserved for those with human characteristics. The denial of rights in turn produces a dehumanized figure.

When asked whether young people understand the criminal justice system, Alex, a criminal justice youth worker explained that due to the complexity of the processes youth often “have no idea what’s going on.” Robert, who provides services to mentally ill people in the court system, suggested another concern was that refugees, poor people, and the mentally ill often go through court processes without the benefit of a lawyer. Suliman, a youth PO, elaborated further, “People are not aware of their rights in the way that we might think they are; they’re given some cursory information but it’s not enough.” He wished that refugees received a more intensive orientation that included things “as simple as getting a coffee in Tim Horton’s and not butting in line—because they’re used to ‘whoever gets there first just go and get the resource.’ But that can lead to an assault charge here.” He concluded, “The settlement services just have to be way more intensive and way better; the orientation has to be more in depth. It really has to improve.” Hassan explained that he learned about his rights during a stop and search from watching YouTube videos.

A settlement worker, Theresa, noted, “It’s a matter of cultural interpretation because [refugees] don’t necessarily even know that they can ask questions because they don’t tend to challenge and they don’t tend to question.” Anna, another settlement worker, agreed that refugees who have recently arrived may not be aware that they have rights and can ask for things and this can be the first step towards criminalization: “Hence, ‘You know what? I shouldn’t be going to school because I need to support my family, and they’re kicking me out anyway, so I’m going to sell drugs.’” Jamilah, a refugee settlement worker, argued that if the Canadian government is bringing refugees to resettle in Canada then it must take responsibility for explaining the system here so refugees can adjust and integrate. Her colleague Fatima concluded, “Giving people rules and telling them, ‘Just read it,’ is not enough.”

6.3 Legal Rights

Access to justice is widely acknowledged as one of the most pressing justice issues in Canada (e.g. CBA 2013; Farrow 2014; Perodeau 2016). The more vulnerable one is, the greater the likelihood of experiencing legal problems; on top of this, the challenges of access
to legal services are also greater (CBA 2013; Farrow 2014). Farrow (2014) points out that legal problems tend to compound and multiply as unresolved family, discrimination, employment, racial, housing or other legal problems often lead to additional legal and other (e.g. health) problems. Key access to justice issues include the high cost of accessing legal services, the difficulty of finding and understanding information about legal processes, and expensive, protracted trials. Even relatively simple cases require many appearances and long delays (CBA 2013). In these contexts, Perodeau (2016) emphasizes that the lack of accessible means of enforcing rights threatens the rule of law. The problems are particularly severe for low-income people, youth, racialized groups, newcomers, single mothers, and people with disabilities (CBA 2013). These are the same groups that experience marginalization in other areas of social life due to their race, class, gender, age and ability status, which in turn arise from the humanist limits on who may embody the human. The experiences of the youth I spoke with take place in these contexts and contribute to understandings of the problems associated with access to justice.

The Right to Trial in a Reasonable Time

CRF s.11 provides that in proceedings in criminal and penal matters, “Any person charged with an offence has the right (a) to be informed without unreasonable delay of the specific offence; (b) to be tried within a reasonable time.” In provincial courts, a delay of 8-10 months may be considered reasonable (Arblaster 2006). For young people, however, this represents over 5% of their lifetime.

I asked Terrance, a youth Crown attorney to reflect on gaps in the system that he had noticed in his work. He declined to answer, indicating it was a “loaded question.” Although I did not ask for clarification, I speculate he meant that since he represents “the system,” my question was asking him to criticize or identify gaps in a system that his work fundamentally upholds.33 However, youth workers emphasized that it could take a year with up to 15 appearances for a charge to be processed before youth receive a probation order, which for young people is much too long. By that time, not only has the offence faded in the young person’s memory, but while on bail they may have breached their bail conditions multiple

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33 Although in many respects this was true for most of the professional stakeholders I spoke with, I believe the others (who were keen to identify gaps in the system) felt that they were changing the system for the better from the inside. Also, few if any were in positions as powerful as that of Crown counsel.
times, and they also cannot attend school. Pointing to the role of policy in these matters, Alex, a youth worker argued, “It should be [young people’s] right to have charges dealt with in 60 days. It’s a question of resources and the way they are distributed.”

Alex explained that although it is extremely difficult for youth to apply for legal aid, get a lawyer, and go to court on their own, due to limitations on agency funding (which comes from Corrections, Public Safety, Ministry of Justice, and other relevant government agencies), his staff are unable to accompany youth for more than one or two appearances. These funding structures arise from policy decisions which prevent non-profit agencies set up to assist young people through criminal justice processes from helping as they might wish. The same can be said of settlement services and the lack of effective orientation services for youth; it is not that settlement workers do not care but that there is insufficient funding to meet the need (Chuang 2009; Creese 2011; Drolet et al 2012). These are profoundly systemic issues.

Youth confirmed that, in John’s words, “court cases drag on forever.” Ashraf explained how extended court cases can create long-term vulnerability even when the charges are dropped. One night he and his friend were arrested and charged with a robbery they had not committed. He explained,

They charged us, they took us to jail, they gave us court dates, they released us on bail after one or two days, [and] then we went to court…I got a lawyer, did this and that; eventually, because we had nothing to do with it they dropped it. But they kill you psychologically. The fact that they dropped the case makes you very happy…but the fact that you went through all that for two months still exists.

The challenges will be even greater for somebody who lacks strong English language skills. Anh, who assists immigrants in court noted, “White people in the court registry speak very quickly, and they don’t explain anything.” For example, newcomers usually believe that the duty counsel is their lawyer, so when Crown tells them to return in two weeks with their lawyer they think they have one already, resulting in further delays.

The Right to Interpretation in Criminal Justice Processes

Another right of an accused person is to interpretation. According to CRF s. 14, “A party or witness in any proceeding who does not understand or speak the language in which the proceedings are conducted or who is deaf has the right to the assistance of an interpreter.”
Further, CRF s.10 provides that “Everyone has the right on arrest or detention to be informed promptly of the reasons therefore.” CSC’s policy on “ethnocultural offenders” stipulates that discriminatory behaviour will not be tolerated, and guarantees the right to interpreter services in quasi-judicial proceedings where the loss of liberty or privileges is at stake for offenders who have difficulty speaking or understanding English or French (CSC 2015; OCI 2013). Unfortunately, even these limited goals are rarely met. Kirin, a CSC employee, suggested there is “systemic discrimination” in the federal system in that there are no active attempts to provide interpretation services even though it is a fundamental human right to understand. She explained that a PO may “go above and beyond” the policy by working with a colleague or practicum student to provide interpretation, but doing so is not a priority. In addition to a violation of rights, Kirin said other issues associated with lack of interpretation include “disrespect and humiliation, making that person feel ‘this’ small,” and blaming them for their lack of understanding.

Language is a critical issue with respect to attendance in programs that affect release conditions. Paul, a prison lawyer, described challenges related to language and program access, explaining that people who do not speak English cannot participate in programs unless they learn English. I wondered what happened when programming is required as a condition of release. Kirin has worked for CSC and also in a criminal justice NGO. She related that if somebody has a language barrier, “instead of providing translation services, which are expensive, the government just says, ‘Oh well, this person has a language barrier.’” Kirin has sat on community corrections interventions boards where programming needs are being assessed. She explained that in a recent case of somebody who does not speak any English,

The Manager of Programs said, ‘Oh well, we’ll just put him through [the program] and see what he can get out of it.’ I’m looking at her thinking, ‘That’s such ignorance!’ Because he won’t get a thing out of it...What are you doing to that person, to their sense of self-esteem, how they’re perceived by others? ‘Oh, you’re just an immigrant.’ It’s Othering them! It’s just disgusting. But people come from this position of, ‘Well, he has to; we know what’s best for him. We are making the decisions for [him].’

Theresa, a settlement worker, also underlined the importance of interpretation to ensure that clients understand what is happening to them. She suggested when people go through processes that have significant implications which they do not understand and cannot
make informed decisions about, they do not own their own life. Persons have ownership over their own lives and bodies; conversely, beings denominated as property are owned (by persons). The denial of rights to the criminalized refugee youth I spoke with amounts to a denial of personhood by denying them ownership of their lives and bodies and is therefore a form of dehumanization that reproduces the human(person) / nature(property) dualism.

Based on her experience in the federal system, Kirin stated,

Imagine you are coming in and there’s a language barrier and someone hands you paperwork and they think they’ve done their job because they showed the documents to you, but you don’t even know what they say about you and you don’t actually know when your release dates are because you don’t understand!

Within the dominant humanist framework, autonomy and independence are fundamental aspects of personhood. Consequently, denying someone the ability to make decisions about their life due to a lack of interpretation is not only dehumanizing, but also a means of enforcing inequalities that ultimately rely on the supposed separation of nature and culture. Not owning one’s life recalls conditions that characterize slavery and draw attention to the legal distinction between personhood and property status. These examples also reveal racism as a modality of dehumanization that functions in part by withholding or inhibiting the language/speech of certain beings, thus rendering them brutes (Seshadri 2012).

The lack of funding for interpretation presents a significant challenge for POs. Suliman, a youth PO, explained that because there is no interpretation, following court orders becomes “rote memorization” rather than understanding and learning. Some POs resorted to using Google Translate but were eventually directed by the ministry to stop because of the uncertainty of what was being said. He elaborated, “We try to get [court orders] translated as much as we can, but there’s not much we can do…We can’t get $3,000 to translate six court documents in eight different languages, just so I can give [youth] the basics of what is going to happen to them! It has to come from the government. And that’s the biggest challenge.” Suliman told me he has a disproportionate number of refugee youth on his caseload and that due to language difficulties it is a major challenge to provide services for them. He outlined some of the other limitations that arise from the lack of interpretation services,

I can’t engage and establish a relationship or a rapport because the language is a barrier. There are times when there will be an argument between mom and dad and the interpreter isn’t available, then…I am literally getting their signature on a piece of paper directing them to come back, just to meet the court requirement. Am I able to
assist with any of the obvious parenting issues? ...No, language is a barrier... Language prevents us from doing 90% of what we can do in terms of services for our clients...I keep sending it up the chain that we need more money for interpretation: ‘No, not at this time.’

Although people working on the ground have clearly identified an urgent need for interpretation, decision makers deny access to the funds needed to provide this basic right.

Kirin, who has worked as an adult PO, described similar challenges in the federal system where a family member often ends up doing the translating. She suggested that without a professional interpreter, the assessment that results usually lacks depth and accuracy. Youth workers told a similar story. Rosemary, a youth social worker, related, “I’ve witnessed a situation in a probation office—the mother didn’t speak English so we had the son interpreting and they were arguing back and forth in their language and we had no idea what they were saying.” Alex, a criminal justice youth worker who supervises youth on court orders in the community described a situation with an Iraqi family where the youth who was under a court order translated the conversations. He recalled, “The parents spoke basic English but there are important nuances missed out, so I’m like, ‘I’m seeing anxiety in your son, blah, blah, blah,’ and I don’t know if he’s translating it properly!”

Anna insisted that lack of interpretation is overlooked, despite the social and legal implications: “Imagine I’m telling you that you are under arrest and you don’t understand your rights and responsibilities.” When I asked her whether fundamental rights were being denied, Anna replied, “Fundamental rights don’t apply to every person.” She related that she had seen cases where a person was being arrested and a passer-by who seemed to be from the same culture was pulled over to translate; the police ask them to get involved without having any idea who they are. Anna suggested that in these situations, “On paper it looks great: ‘We had an interpreter,’ but the implementation is lacking.” She concluded, “In this system, hardly anyone fits because it’s based on a very White model.” The model is designed by and for humans (i.e. Whites); sub/non-humans cannot conform and therefore cannot enjoy associated rights and privileges.

Lack of interpretation also references the relationship between language and human status in that the denial of language/voice is dehumanizing (Seshadri 2012). It denies the youth I spoke with the ability to make informed decisions about their lives, thereby eroding their autonomy and independence, two other defining human characteristics according to
Western humanist definitions. By establishing a group of people who lack crucial human characteristics, such processes iteratively perform the human and sub-human figures, and thus illustrate a way in which institutional policies and systems perform humanist categories and exclusions.

The Right to Legal Counsel

Section 10 of CRF provides that individuals who are arrested or detained have the right to “retain and instruct counsel without delay and to be informed of that right; and to have the validity of the detention determined by way of habeas corpus and to be released if the detention is not lawful.” Recognition of habeas corpus corresponds to acknowledgement of personhood (Weheliye 2014; Hartman 1996). Although youth may use the services of a legal-aid funded duty counsel in court, access to legal counsel while in custody is much more limited. In addition, there are a number of problems with having to rely on duty counsel for one’s defense, which I describe in Chapter 7.

I asked Kirin, a CSC employee, about access to a lawyer while in custody. She told me, “Normally, when they first come in it is explained to them that they can have access to legal counsel without delay. It’s a fundamental right, but it’s about knowing their rights and how they can exercise those rights. I have no doubt in my mind that those rights get infringed on a daily basis because I’ve experienced that as a professional...Hypothetically, they can access a lawyer on demand but that right is not necessarily protected.”

Paul, a prison lawyer, suggested the closed environment of the prison permits the violation of rights to occur away from public scrutiny. He added,

The grievance procedure was investigated and found to be totally ineffective and then there are problems with getting remedies; the Provincial Supreme Court is always trying to duck habeas corpus...I could go on and on. These are the things that we keep running into...trying to make sure that the rule of law applies and not just the whim of some administrator—which is so easy for them because of the lack of access and scrutiny of what goes on; it’s all behind walls.

He noted that for refugees in particular, given the potential immigration implications, access to counsel is critical but that it is often lacking due to the limitations of legal aid and “lack of funding for prisoners’ issues in general.” Whereas recognition of habeus corpus creates and acknowledges personhood, denying habeus corpus effectively repudiates personhood, which
was denied to racialized minorities and slaves and is still denied to non-human animals because of their definition as property rather than person (Weheliye 2014; Wise 2008). In this sense, denial of habeus corpus performs the production of the sub- or non-human figure.

6.4 Social Rights
The Right to not be Racially Profiled

CRF provides for equality before the law. Section 15 states, “Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.” The disproportionate criminalization of people with mental illness, including addiction, and also of racialized persons, reveals that the ideal of equality has yet to be achieved. As described in Chapters 2 and 3, the evidence overwhelmingly shows that racial profiling particularly targets Black and Indigenous men, who are also disproportionately represented in police use-of-force incidents (e.g. Chan & Chunn 2014). Discrimination based on socioeconomic class is permitted by law and permeates every aspect of Canadian society. Although the CRF supposedly prohibits discrimination based on age, such discrimination is widely accepted and codified in numerous laws (e.g. spanking, voting, drinking, and residential tenancy law).

Discrimination against people with disabilities is also an integral aspect of immigration law in the form of the “Excessive Demands Clause” (El-Lahib 2015). The work of Deckha (2008; 2010) and Ko (2015a) suggest that equality cannot be achieved as long as a hierarchically defined human/non-human binary remains in place as the foundation of human rights discourse. For example, Deckha argues, “As much as intersectionalists may wish to create a vision of human specialness that does not exclude other humans, this desire will remain frustrated because it rests on exclusions (of animals and other non-humans) that rely on hierarchies of race, culture and gender for their logical sway” (2008, 266).

Profiling of minority youth involves categorizing people based on external characteristics such as race, class, and gender rather than individual circumstances. Abbas

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34 To draw attention to these issues, Weheliye (2014) titled his book Habeus Viscus (you shall have the flesh), a term which he suggests draws attention to political violence and the ways in which the law determines who is deserving of personhood; for him, flesh resists the notion of personhood as property, and represents a form of humanity that is not in the image of Man.
shared an experience of walking home from the mosque with some friends. The boys, who were in Grades 8 to 10, were kicking a pine cone along the sidewalk when it went onto the road. He recalled his shock at what happened next, “The pine cone just went on the road, and a police officer who happened to be driving by at the time turns around and searches us and asks for our ID, and accuses us of throwing rocks at his cruiser…We were just kids and he’s like, ‘Are you in gangs? Do you have a gun on you?’ He said that to us!”

Hassan had a similar complaint. His anecdote is representative of many that were shared with me by the youth who took part in this study:

On the streets, cops see you walking, man, ‘Hey, how’s it going? What are you doing here, man? Oh, you got any ID on you?…Okay, so who are you meeting here? You got any drugs on you?’ Boom. Every time. And even when I got out of that [lifestyle] it was the same thing over and over and over. Even when I started dressing more casual and less gangster, stopped associating with my friends, the same thing, stopping me all the time… I’m like, ‘Why can’t you just treat me like everybody else?’ because when you get stopped and you’re with five people and they’re like ‘I want to search you,’ it’s like, ‘Okay, a-a-a-and everybody else?’ ‘Oh yeah, they can go. I want to search you.’…It’s a stereotype and a lot of people have it. Here, it isn’t about where you’re from, man, you know, it’s like ‘what are you?’

In other words, racialized youth are not a somebody with a family, who came from somewhere, but a criminal, a thing with no relevant history apart from criminality. Hassan also points to the common situation, which I observed while working at the organization where I met James, whereby street-involved refugee youth lack identity documents.

Ashraf also wished that the police would stop judging him based on stereotypes about Black people. Referencing the assumptions underlying labelling theory (see Chapter 3), he asserted,

The police are themselves the ones who think of something bad. I remember when I had no record, no nothing, they would always chase after me, arrest me, search my things…When they pick you from many people they create the belief that you yourself would think of something bad; it’s psychological. In normal life among your peers, if your people call you some kind of name like ‘thief’ or something like that, which you are not…eventually you find yourself doing those things…If your parents and everybody are telling you, ‘You’re a good girl,’ you will eventually find yourself doing good things. So if they would treat people in a good way many things would not have happened.

Hassan also resented the assumption from police that he is a “criminal.” His advice for police is, “Treat everybody equally; we’re not all criminals here so there’s no need for me to think
bad about you or for you to think bad about me.” Salih (2007b) draws attention to the connections between performativity and interpellation, whereby identities are “hailed” into being. When authority figures hail the youth I spoke with as criminals they take part in an iterative process of interpellation which produces young Black/Muslim men as criminalized figures who are undeserving of rights due to the connection of racialization and criminality with animality.

In addition to stigmatization as criminals, most of the young people I spoke to were also labeled gang members, even though they rejected the denomination. As noted in Chapter 3, Black people are more likely than members of other group to be labelled gang members and this has consequences for access to services and programs, and affects their treatment by correctional staff and police (OCI 2013). Fayyad was labeled a gang member. When I asked if he had belonged to a gang, he replied, “They give it to you no matter what. I do maybe have friends. Like they see a bunch of Somali guys and, ‘Oh, you’re a gang.’ That’s how they profile you…It’s the colour of your skin or whatever.” Burhan was also labeled a gang member. He told me, “They gave us our own name—it sounded pretty racist—they called us the [nationality, animals] when we didn’t even name ourselves that! A couple of our friends had [animal] tattoos and they assumed that was a gang logo when it wasn’t like that at all!”

The Right to Non-Discrimination on the Basis of a Criminal Record

According to CHRA s.3(1) “For all purposes of this Act, the prohibited grounds of discrimination are race, national or ethnic origin, colour, religion, age, sex, sexual orientation, marital status, family status, disability and conviction for an offence for which a pardon has been granted or in respect of which a record suspension has been ordered.” Therefore, under certain circumstances it is legal to discriminate against somebody on the basis of a criminal record. However, the fact that Record Suspensions are practically impossible to obtain (see Chapter 3), effectively means that discrimination on the basis of a criminal record is permanently permitted. Even a single offence could have a permanent effect on access to housing, employment, travel, family sponsorship, and other aspects of life. This dehumanizes “criminals” and denies them a fundamental human right that people who have not been convicted of a crime (regardless of their actual behaviour) are not denied.

35 E.g. Canadian Tigers (changed to protect confidentiality)
CRF s.6 states, “It is a discriminatory practice in the provision of commercial premises or residential accommodation (a) to deny occupancy of such premises or accommodation to any individual, or (b) to differentiate adversely in relation to any individual, on a prohibited ground of discrimination.” In other words, it is acceptable to discriminate against somebody on the basis of having a criminal record, but not on race. Here the definition of permissible discrimination becomes blurred because racial profiling has been clearly shown to exist in the criminal justice system (e.g. Chan & Chunn 2014; Henry & Tator 2006; Tanovich 2008). Meanwhile record suspensions are practically unobtainable. Thus, racial discrimination slips into the housing market via discrimination based on the existence of a criminal record. Through such processes, race becomes bureaucratized. Since race thinking is a form of species thinking, discrimination based on the existence of a criminal record provides a means by which humanist categories and exclusions are perpetuated through the housing and labour markets.

In terms of employment, CHRA s.7 states, “It is a discriminatory practice, directly or indirectly, (a) to refuse to employ or continue to employ any individual, or (b) in the course of employment, to differentiate adversely in relation to an employee, on a prohibited ground of discrimination.” According to Pardons Canada (2016), an increasing number of Canadian businesses are requiring background and criminal record checks for applicants. Purchasing a franchise or obtaining a liquor license requires a criminal background check as does entry into some professional educational programs. Many charity programs and volunteer opportunities reject those with criminal backgrounds. These practices force people to reveal past mistakes that may no longer be relevant and can prevent an individual from obtaining employment, starting a business, or advancing in their career (Pardons Canada 2016).

Another problem for people with a criminal record is that they are not “bondable.” Generally, this means that an employer cannot insure their business against the possibility that the criminalized employee might steal (even if they were convicted of assault). More broadly, bondability implies connectability. Disconnected from society and cut loose from humanity, the removal of criminalized refugee youth to the margins is accomplished through discrimination based on their criminal record. This creates further vulnerability to exploitation. Kirin, who worked as a CSC PO, concluded, “Our society definitely isn’t set up to give them the optimal chance of achieving success.”
Once a person has a criminal record, they will be judged by police and wider society, likely for the rest of their lives, based on one single facet of their experience. Settlement and youth workers emphasized the difficulty of obtaining employment (including volunteer positions) with a criminal record when most application forms either have a check box or require a criminal record check. Young people’s stories confirmed this. Hassan stated, “There’s a line. Like, once you have a record and stuff, I see it now; they look at me, and they’re like, ‘Oh, you have a record.’ And when they see the criminal record check they’re like, ‘Whoa! You have...whoa! Assault, assault, whoa, and...!’ And I’m like, ‘Okay, wow, get off my back. We all went through bad things.’” Hassan’s statement buttresses an earlier point: while almost everybody in Canada has committed some kind of criminal act, poor and racialized people are disproportionately criminalized and punished. Moreover, the effects of a criminal record are exacerbated for already marginalized and racialized people (e.g. Pager 2004). John told me, “I can’t get jobs. You apply, but if you have a criminal record you’re not going to get hired. They all ask for it...The biggest challenge I have is that criminal record because it’s always going to stay.” He expressed his hopelessness, “Now you’re in Canada but you’re identified as one thing. You can’t be identified as a lawyer, or that doctor you wanted to be; you are a criminal and you can never reach beyond that because of your criminal record.”

Many professionals shared similar stories of refugee youth they had worked with who were unable to find employment due to their criminal record even many years after the sentence had been completed. They explained that young people do not tend to be aware of these long term consequences. Susan, a settlement worker whose agency provides gated programs for youth, told me, “A lot of our young people are very reactive at that age; they don’t really think about the consequences and they end up with a criminal record...When they start to be motivated and pursue their future is when it starts to really impact on them.” Shambhavi, a settlement worker, confirmed, “That criminal record is going to haunt you wherever you go.” Permanent stigma does not establish public safety, but a dehumanized figure that may be denied rights.
The Right to Live with One’s Family

Most immigrants have to leave family members behind, but refugees’ family members may still be facing persecution or living in deplorable conditions in a refugee camp. On top of this, refugees in Canada (including the youth I spoke with) have financial obligations to their family back home which are more difficult to meet when they are struggling here. Being separated from family is not only painful and costly, but can also hinder settlement and integration (Francis 2010). Daniel, Burhan, Abbas, Hassan, and Issa are in Canada with both of their parents. However, Hamdi, Dani, Raffi, Fayyad, and John came with only their mothers and in a few cases, some of their siblings. Peter and Ashraf are here without family members.

The nuclear family is one of the cornerstones that purportedly defines humanity against the primitive or temporary families that supposedly characterize non-human animals and savages (Haraway 1989; Stoler 1995). Denying family reunification is thus doubly dehumanizing; in a general sense it entails the denial of a human right (see below), while more specifically it denies some refugees and criminalized people access to a defining feature of humanity, thereby exacerbating existing discourse about “broken” refugee families from “primitive” parts of the world. For example, Diane Francis asserts that “dysfunctional and fragmented families...are literally flooding into Toronto” (2002, 102). Mass media commentary also pathologizes Black families and blames them for their marginalization. With resounding echoes of Freud, a Globe & Mail editorial titled “The Many Fatherless Boys in Black Families” opened with the following: “Who is doing the killing and who is being killed in the wave of reckless public violence that has struck Toronto? Black boys and young men with no fathers in their homes” (Burman 2007, 180). Police and youth POs who I spoke with frequently insisted that the lack of a strong male figure in the family significantly contributed to criminal behaviour young Muslim men—as if the patriarchal nuclear family provided a guarantee against criminal behaviour.

A 2006 Canadian Council for Refugees (CCR) Report to the UN Committee on Economic, Social and Cultural Rights on Canada’s compliance with the ICESCR, titled Non-Citizens in Canada: Equally Human, Equally Entitled to Rights draws explicitly on liberal human rights discourse by suggesting that “non-citizens are human too.” Such an argument would not need to be made unless the humanity of non-citizens was in question. CCR (2006)
argues that at least two articles from the CRC (which Canada has signed and ratified) are violated by Canadian immigration policy. Article 9.1 states, “State Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child.” Article 10.1 adds, “In accordance with the obligation of State Parties under article 9, paragraph 1, applications by a child or his or her parents to enter or leave a State Party for the purpose of family reunification shall be dealt with by State Parties in a positive, humane and expeditious manner” (CCR 2006).

The CCR notes that IRPA denies family reunification to anyone not declared on a previous application for landing. There is no appeal and the denial applies forever, permanently punishing people for not declaring dependants. IRCC has promoted and sued for the widest possible application of the prohibition. The report notes that many innocent factors cause people not to declare dependants on immigration applications. Refugees may have lost contact with family members or believe them to be deceased or they not comprehend disclosure obligations. Consequently, the report concludes, the rule “punishes ignorance, duress, or honest but mistaken beliefs by permanently separating people from their spouses and children” (CCR 2006, 4).

Family reunification policy also discriminates against people who are poor. Under IRPA, receiving social assistance confers ineligibility to sponsor and thus prevents family reunification. Even where compelling humanitarian considerations exist, including the best interests of the children concerned, families have to appeal the decision, which adds at least two years to the already lengthy sponsorship process, requires the services of a lawyer, and may not be successful (CCR 2006). Many refugees need social assistance while they overcome trauma, learn English or upgrade their skills. Many single parents require social assistance to meet the needs of their family (Chuang 2009). These circumstances describe the young people that I spoke with and their families. Denying family reunification to already marginalized people creates additional emotional stress for people who are already vulnerable (Francis 2010). In addition, for LCRs the cost of applying for PR for the sponsor and for their family members can be prohibitive (CCR 2006).
The CCR (2006) report argues that another concern arises from the definition of a “child” in IRPA as a “biological or legally adopted child.” Due to challenges associated with flight and conflict, refugees may have difficulty obtaining documents to prove their relationship to their children. NGOs find that DNA testing is disproportionately required to bring dependent children from Africa and Asia. DNA testing is costly and can be difficult to obtain and therefore constitutes yet another burden on refugees wishing to reunite with family members. Further, in many countries, adoption is undertaken informally and the requirement of formal proof of a relationship could mean that children are separated permanently from the only family they have (CCR 2006). On top of these concerns, long processing delays for family reunification mean that the sponsorship process takes several years. In addition to the concerns mentioned above, some criminal offences can create ineligibility to sponsor family members (Edelman 2013). Finally, refugees who have lost their PR status cannot sponsor relatives due to their lack of status.

Ashraf is here alone and misses his mom terribly. He told me,

I left my mom back there—it’s really, really tough…I haven’t been back home since I left and it’s really, really sad… not having seen your mom for almost a decade; it’s really, really difficult. I left there as a teenage boy and now I’m a grown man…I wish I could do much more for her, anything that she dreams about.

As with the youth that Khanlou et al (2009) interviewed, John experienced a series of separations. He related that his mother came to Canada with his little brothers, and he came later with his older sister and brother. He was eight years old when he arrived to Canada after he and his siblings disguised themselves as a church choir to cross borders in Africa. He recalled, “Coming here was a struggle for my family, especially being away from my mom, and then from my dad, but we managed.” However, John fell into a depression when his father passed away before he was able to see him again.

William, a SWIS worker, described the situation of two girls who were separated from their mothers at age seven and nine. During the interviews prior to coming to Canada there was some violence in the camp and the mothers were not present for the interviews, so Canadian officials told the girls to go with their uncles and they would ensure that their mothers joined them immediately in Canada. William told me, “Now it has been over seven years and those are the girls who could kill somebody…One of them for sure is already into criminal activity, and this is the type of person that will try to harm the society because they
don’t care; it’s like the society is killing them and they have nothing to lose.” He emphasized the importance of ensuring that policies are organized so that once a decision is made to bring a child to Canada, that their parents come right away. He concluded, “I don’t see the point of bringing a child in and then deciding not to bring the parents; it doesn’t make any sense.” From a social justice perspective it makes no sense. However, separating families perpetuates humanist categories and exclusions in that it separates those whose rights matter from those who may be legitimately denied rights, thereby reinscribing and sustaining the human/non-human boundary.

Youth workers noted that problems often arise when parents and children are united after several years apart because the child no longer recognizes the parent or their authority. Alex explained, “You see major attachment issues because the kids are like, ‘We don’t know you.’” Fayyad was separated from his mother and eventually joined her in Canada. He recalled, “I didn’t even know what my mom looked like because she’d left when I was a little kid. It’s divide and conquer, that’s what they say.” Fayyad’s comment suggests that policy divides those who matter and deserve to be with their family from subhumans who matter less and may be denied this human right. Ashraf suggested, “A daddy or a mommy in the air, that doesn’t make no sense. See what they are destroying! They are destroying somebody’s life...Here it’s, ‘We’re so civilized.’…Be civilized even to the clouds but you still have to look after your children.” Here Ashraf also draws critical attention to construction of the mythical human citizen-subject as civilized, in contrast to animals and primitive peoples who lack “proper” family structure as it is defined in White middle-class humanist terms.

The Right to Housing

Although the Canadian constitution does not establish a legal right to housing, Canada has signed and ratified the ICESCR, Article 11 of which recognizes “the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions.” Thus, while the Canadian government does not define housing as a right, I understand it to be one here based on the Canadian ratification of the UN Covenant. The housing situation in Canada was described “a national emergency” by the UN in a review of Canada’s compliance with the ICESCR, and a “national crisis” by the UN Special Rapporteur on Housing (Miloon
Canadian scholars have identified numerous forms of discrimination in the housing market, including on the basis of race, country of origin, source of income, and immigration status (e.g. Francis 2009; Hiebert et al 2008; Kissoon 2010; Murdie 2010; Sherrell 2010; Teixeira 2008).

Almost all of the young people I spoke with had experienced homelessness. At the time of our interview, Dani, Raffi, and Abbas were living in a safe house. Hassan and Ashraf were in SROs. Daniel was couch-surfing. Peter lived at a halfway house. Fayyad was in precarious shared accommodation and became homeless just after our interview. Issa, Burhan, and Hamdi lived with their parents; however, Hamdi experienced frequent bouts of homelessness when his mother kicked him out. John lived in overcrowded, shared accommodation.

Housing is a major issue for young people if they cannot live at home. Daniel explained that after his parents kicked him out, he held a number of temporary positions at construction sites where he was paid minimum wage which at the time was eight dollars per hour. He related, “The tough part is having a stable place to live because you have to depend on your friends to live with them because they pay the rent every month—at [minimum wage] you can’t do that.” He described how he would live with one friend for a week, then another friend the next week. However, under those unstable conditions, which were exacerbated by his frequent involvement with the justice system, reliance on temporary employment, and the loss of his PR status for criminality, he often found himself homeless. When I met him, Daniel was sleeping on a friend’s sofa.

Alex, who works with youth involved in the criminal justice system, also emphasized problems related to housing, especially for low SES families. He explained that under a Youth Agreement there is a cap of $450 or $425 on shelter costs. In these contexts, he asked, “Where do you find affordable, supportive housing that is ideal for these kids? The answer is that you take housing that is not ideal.” Another youth worker, Kirstin, pointed out a different challenge related to Youth Agreements, noting that youth are “set up to fail because of the conditions and teenagers make bad decisions: your friend stays the night—you

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36 Between the ages of 16 and 18, youth may be eligible for a Youth Agreement if they experience homelessness, mental illness, substance abuse or sexual exploitation and they cannot live with their family and government care is not a good option. Under a Youth Agreement, youth may receive financial and other support in return for a commitment to work with service providers (RCY 2014, 31).
get kicked off your Youth Agreement. You get caught smoking pot—kicked off your Youth Agreement. You don’t go to school for a few days—kicked off your Youth Agreement.”

Youth workers in Surrey and Richmond complained that there was no youth housing or youth shelter in their municipalities, even though there are many homeless youth, and that as a result those youth often ended up in Vancouver. Kirstin, a youth worker in Richmond, shared, “There are a lot of kids under 16 that are sleeping in Starbucks tonight or in Tim Horton’s because they’re [open] 24 hours.” Susan, a settlement worker, identified a similar issue in Surrey, “If only we had a youth supported housing facility here! We need youth housing in Surrey…because the odds of that young person coming out of the lifestyle of crime without the support are very, very small! They get deeper and deeper and deeper entrenched into that lifestyle and it just gets worse.” Youth released from custody also suffer from the lack of housing services. Derek works with incarcerated youth. He told me, “If [only] there was some sort of homelessness prevention strategy in place for youth in custody, that would be awesome, but there isn’t.” It is worth noting that it is a policy decision to permit some youth to become homeless. Since housing is not defined by policy as a legal right, the implication is that it is acceptable for some people to lack housing. Since homelessness is dehumanizing, this is another means by which policy performs animalized figures.

Although housing and shelter services exist in Vancouver, the supply is insufficient to meet the need. Robert, who provides services to people experiencing mental illness who are involved in the justice system, told me bitterly,

I can’t from my desk solve everybody’s problems. [Pretends to be on the phone] ‘Do you have any male beds for tonight?’ ‘No,’ click. ‘Do you have any male beds for tonight?’ ‘No,’ click. ‘Do you have any male beds for tonight?’ ‘No,’ click. So sometimes there’s just no place to stay but they’re being released...They just hit the streets whatever time of day it is and just try to survive.

Kirin’s organization works to find housing for federally sentenced men and she stressed that the task is almost impossible, “Even when we assure the landlord that [our agency] will pay the rent, our clientele is that frightening: ‘Holy, no! We can’t take them!’ ...We say, ‘You don’t need to worry about them as a tenant because we will take all of that,’ but it doesn’t make any difference.”
The lack of housing for youth, people coming out of jail, those with criminal records, and poor people is exacerbated when mental health issues are added to the mix. Robert, who assists mentally ill people on the DTES related, “Here on the frontier in BC, you pull yourself up by your bootstraps; you’re an individual and you either make it or you don’t.” Experiencing mental illness in BC, especially if one is already marginalized in other ways, frequently entails homelessness, criminalization or both. I asked Sam, who provides services to people with adaptive and developmental disabilities, how such people cope. He told me,

People with developmental disabilities are often cycling through the criminal justice system and emergency health services. I guarantee there’s a very high proportion that are using emergency shelters or are homeless...The people who are alone and isolated may end up with the wrong sorts of connections and a lot of people I’ve worked with who are refugees who are struggling with mental health and addictions and criminal issues and things like that, end up getting criminalized.

The UN Human Rights Committee also expressed concern about people with mental illnesses being detained in institutions because of the lack of supportive housing (OHRC 2007).

6.5 Conclusion

According to traditional legal doctrine, law’s role in society is to dispense justice in an unbiased fashion. Conversely, critical legal theorists have argued, and this study shows, that far from being impartial and objective, the law deals in ideological meanings and assumptions built upon discourses related to race, class, and gender (Grear 2015; Jiwani 2006; Naffine 2011; Razack 2002; Thobani 2007). This dissertation posits that these practices perform the emergence of two key figures: the human and his subhuman Other. Specifically, this chapter argued that one way in which the law participates in this performance is through the denial or application of human rights. Within the humanist symbolic economy, human rights do not apply to non-humans, therefore the dehumanized and criminalized refugee youth who participated in this study may be legitimately denied them; in turn, denying human rights is a form of dehumanization.

While conservative critic Diane Francis argues that “[Canada’s] generosity to criminals knows few bounds” and that “courts bend over backwards for refugees who commit hideous crimes here” (2002, 160), I found that the rights of the youth I spoke with were frequently violated. The denial of rights is the result of raced, classed, gendered, and
aged processes that construct refugee youth as less than human and therefore not entitled to human rights. Their elucidation as such iteratively produces an undeserving subhuman figure and is thus performative of the human/non-human boundary. The subhuman figure into which the youth I spoke with are incorporated relies on the reproduction of that binary as a means of determining who is entitled to human rights. As Deckha indicates in the opening quote, the fundamentally hierarchical and exclusionary logic of liberal human rights underwrites rankings among humans. Thus, liberal humanism is “counterproductive for any emancipatory project” (Deckha 2008, 260). When combined with the dismissal by authorities of the narratives of the criminalized refugee youth I spoke with (Chapter 5), restricted access to human rights contributes to their capture by the discourse of disposal which provides the focus for the next chapter.
Chapter 7. Discourse of Disposability

“Imagine, you’re struggling to hold onto something and you are going to school and, sure, you are not complying, but you get kicked out—you are disposable; you are not wanted anymore.” –Anna

“Their lives are essentially being lost. There are so many things that go on inside that intentionally or inadvertently dehumanize this person.” –Kirin

“Once you are in the criminal justice system, you are in—you’re stuck.” –John

“To be declared redundant means to have been disposed of because of being disposable—just like the empty and non-refundable plastic bottle or once-used syringe... ‘Redundancy’ shares its semantic space with ‘rejects,’ ‘wastrels,’ ‘garbage,’ ‘refuse’—with waste...The destination of waste is the waste-yard, the rubbish heap...The main and perhaps the sole purpose of prisons is not just any human-waste disposal but a final, definitive disposal. Once rejected, forever rejected” (Bauman 2004).

7.1 Introduction

A number of scholars employ the concept of “disposability” to describe the conditions in which marginalized, “redundant people” find themselves in the context of racism, sexism, capitalism, slavery, and criminalization (e.g. Bales 2004; Bauman 2004; Chan & Chunn 2014; Giroux 2015). This chapter examines the politics of disposability and the ways in which the criminalized refugee youth who participated in this study are dehumanized through a “discourse of disposal” (Chan & Chunn 2014, 35) that draws on categories of humanist identity such as race, class, and gender to produce certain bodies as “excess.” Giroux (2015) describes “zones of abandonment” characterized by disinvestment, hardship, surveillance, dispossession, containment, and violence in which increasing numbers of Americans—especially youth—find themselves under the logic of a capitalist system that renders some permanently unemployable. A criminal record is one means of rendering someone unemployable. Meanwhile, exclusion itself is criminalized as law enforcement agencies target activities that enable survival, such as petty theft, drinking alcohol in public, sex work, loitering, selling drugs, and so forth (Jiwani 2006; Maynard 2011; Mirchandani & Chan 2007; Reiman 2007; Rose 2000).

The discussion in Chapter 2 suggests that capitalism depends on the human/animal dichotomy and the production of a subordinate subhuman object because the capitalist system is geared toward the production and reproduction of Man. The discourse of
disposability is therefore a biopolitical modality of power exercised as a calculation about the worth of a particular life. The hierarchical logic of Deckha’s (2008) typology of animalized animals, humanized animals, animalized humans, and humanized humans creates the conditions for disposability; not being fully human, some bodies matter less (or not at all). For example, the slogan “Black lives matter” draws attention to the ways in which Black lives are treated as if they do not matter, as if they have no value, as if they were disposable. The link between animalization/dehumanization and disposability is through the differential valuation of life. The bodies of non-human animals and plants are eminently disposable and billions of non-human lives are destroyed annually in North America simply because they are unwanted by humans. Located between animalized animals and humanized humans, animalized humans—such as the youth who took part in this study—matter less than humans but more than animals; animalized humans are placed in that category by virtue of their race, class, gender, age and criminal identities defined as animalistic and closer to savage nature.

Disposability in turn reinforces objectification and dehumanization. As suggested in the quote above, redundant people may be disposed of because they are disposable (Bauman 2004). Similarly, for Butler (1990), the human is produced as part of a hierarchical dualism that excludes some bodies from the set of “bodies that matter.” It is not farfetched to suggest that the lives of marginalized people do not matter much to those in power; research shows that poor health outcomes, including higher levels of illness and early mortality, are associated with low income and incarceration (CSDA 2008; Massoglia 2008; Wilkins 2002), and that some deaths matter less (Lawson 2014). In Canada, based on the income quintile one belongs to at age 25, the life expectancy of a man in the top 20% is more than seven years longer than a man in the bottom 20% (Jackson 2013).

Bauman suggests that “human waste” has no use. However, I propose that it plays an important discursive role with respect to the production of the human and animal figures as part of an epistemological and ontological exercise that produces and enforces a boundary between those defined as human and those who do not measure up. Thus, disposability is one of the mechanisms by which criminal justice, immigration, social welfare, and education policy perform the human/non-human figures via the race-class-gender-age-species nexus that produces the emblematic and dehumanized figure of the dangerous, young, unemployed, Black/Muslim male. In light of Salih’s (2007a) assertion that “human” is not a specific
identity, but a qualitative concept that involves recognition by others as human, I suggest that disposability precludes such recognition.

Rather than the outcome of a single event or the product of deliberate intention of individual decision makers, disposability emerges as the cumulative outcome of intersecting processes that combine to push the youth I spoke with to the margins of humanity. Below, I show how this occurs through: their expulsion from school and their rejection by the labour market which create the structural conditions for poverty, dependence on welfare, and vulnerability to homelessness; the capture of youth in the “revolving door” of the criminal justice system; the stigma attached to criminalization and its effects on youths’ self-concept; the revocation of PR status and production of deportability; and the overall disinvestment in programs for young people.

7.2 Expulsion from Schools and Labour Market

Kicked Out of School

One of this study’s most striking findings is the apparent ease with which schools expel certain children from the education system. The primary reasons for expulsion are perceived lack of engagement (evidenced by poor attendance and failing grades) and fighting. The expulsion of young people from schools directly and indirectly supports the creation of a school-to-prison pipeline: directly, through criminalization of schoolyard violence, and indirectly as rejection creates marginalization and promotes further criminalization. The discussion in this section complements the findings presented in Chapter 5 showing that the explanations provided by the youth who took part in this study were frequently disregarded by school authorities.

Suspension and expulsion are among the most commonly used disciplinary measures for dealing with problem behaviour (SD43 2008). When students under the age of 16 are suspended or expelled, the school has an obligation to provide an educational program, although the nature and extent of that program may vary and could include home instruction. However, a board may decline to enrol a child suspended from another district (Ministry of Education 2014). The rate of suspension for students with emotional/behaviour disorders or learning disabilities is higher than for the general population (SD43 2008). In this context, Berns-McGown (2013) argues that school boards can do more to ensure that teachers and
principals do not mistake the effects of trauma for bad behaviour requiring discipline. Unfortunately, rather than student well-being, the Ministry of Education notes, “Concerns about legal liability are potent driving forces behind the making of policies” (2008a, 5). Although the safety concerns of school authorities are understandable, it is also important to look at the role played of educational policy in creating the conditions for violence. Schools set the stage through the creation of a competitive atmosphere that also reproduces sexism, racism, classism, and ableism. Some youth are pushed to the edge, react with violence, and are expelled. The expulsion from school of the criminalized young refugees who took part in this study is performative of humanism by producing a subhuman class of people who may be denied access to middle-class accoutrements and rendered disposable.

According to a school district brochure on suspension, “Managing problem behaviour—in particular violence—is a growing problem” in schools (SD43 2008, 1). In schools with an active School Liaison Officer (SLO) program, which includes all high schools and some elementary schools in Metro Vancouver, a police officer will be involved in addressing intimidation and violence (Ministry of Education 2008b). Consequently, the possibility of criminalization for offences that formerly may have been dealt with informally or extra-judicially is an ever-present reality in schools that seems to run contrary to compelling evidence that criminal justice interventions are likely to exacerbate existing problems (Goldson 2007). I was unable to determine what, if any, training police officers receive to deal with traumatized youth who are acting out at school. Denying access to education is dehumanizing because it is likely to entail further difficulties accessing the mainstream middle-class lifestyle that characterizes “normal” life for human citizen subjects in Canada. Lack of conformity with dominant norms in turn increases vulnerability to criminalization, marginalization, and dependence. Derek, who works with youth in custody told me, “Almost none of them have graduated high school...It’s totally tragic.”

Suspension and expulsion may send a message to students that they do not belong or are not wanted, increase dependence on external control, escalate stress or anger, reinforce inappropriate behaviour rather than act as a deterrent, result in loss of access to instruction, increase the likelihood of failure or lower grades, create situations in which youth are not supervised by adults, increase the likelihood of substance abuse and risky sexual behaviours, and increase risk of family violence or suicide (SD43 2008). Feelings of exclusion,
detachment from society, and alienation, whether through institutional forms of exclusion (e.g. suspension) or social exclusion by peers and separation from significant adults, can also contribute to violent behaviour (Ministry of Education 1999). Expulsion is likely to further marginalize students; rather than addressing underlying issues it accomplishes a dehumanized figure that may be treated brutally, for example by the criminal justice system. I submitted Freedom of Information (FOI) requests to the Burnaby and Surrey School Districts requesting information on suspensions/expulsions in their districts. According to the data I received, in one year (2014/15) in those two school districts, nearly 500 students were potentially subjected to these outcomes. Youth workers confirmed that it is common for the youth they work with to have been kicked out of school.

For some youth, expulsion from the education system can be the final rejection in a series of dismissals that ultimately leads to incorporation into the criminal justice system. Fayyad identified a key turning point: “I got kicked out of high school and that’s when everything went sour...Then I did time.” He connected with the “bad boys,” stealing bags or cars, smoking weed, drinking alcohol, and hustling. I asked what made him do those things and he told me, “What else was there for me to? You have to fit in.” Although Fayyad was clearly engaged in some undesirable activities, he was unsure why he was expelled from school, suggesting that it was due to “racial profiling.” However, most of the young people I spoke with knew why they had been expelled and it was often for fighting at school.

It is only recently that fights at school have led to children being handcuffed and arrested on school grounds, likely reflecting a new attitude of zero-tolerance by authority figures to behaviours that were previously regarded as “normal” and subject to informal resolution (Alvi 2012; Sprott & Doob 2009). The hardening of responses has lifelong consequences for the young person involved. Miryam, a settlement worker, suggested that youth often use negative coping mechanisms, especially drugs, alcohol or violence. She emphasized, “The less confidence they have, the tougher they try to be.” Daniel described the difficulty from his perspective, “There are the racial issues with the other kids, where you might want to get along with them but they say things to you, call you names, throw things at you, whatever. Things get out of hand, you get expelled, they call the police, call your parents, throw you out of school.”
Angela, a civilian police worker, described the situation of a youth from Rwanda who as a child soldier had been exposed to horrific acts of violence, and had also engaged in violence. His name came to the attention of the police because he was punching kids in the schoolyard in response to taunts about his mother, which was a trigger for him. The school considered him a “safety risk” and he was expelled. The emphasis was on the safety of other children while his safety was overlooked. Angela concluded, “The trauma piece had really been missed...Within two years he was carrying a gun and faced some fairly heavy duty charges.” In other words, he was bullied, his victimization was dismissed, and his reaction was criminalized. Suliman, a youth PO, noted that schools’ response to violence by young people is to “automatically remove them” even though, in his opinion, that is the worst possible outcome because in order to fit in to Canadian society, youth need to be integrated into the school system. I asked Derek, who works with youth in custody, whether racism had affected any of the refugee youth he works with and he told me about two young people who had “experienced really severe, intense racism...at school, got into fights as a result, and got kicked out because of the violence.” I do not suggest that violence should be ignored but that punishment via criminalization and permanent stigmatization are neither effective nor compassionate means of addressing problematic behaviour among young people at school. Moreover, these methods enable racism to persist while also reinforcing species-race-gender-class hierarchies.

The youth I spoke with were removed from the school system because they were deemed a risk. Rather than being at risk, they are the risk. Chan and Chunn (2014) suggest that the key “risk” factor determining dangerousness and criminality in modern Canada is race, which also underlies widespread anxiety about Black criminality due to the conception of young Black men as prone to crime. The connection between Black youth and crime arises from a notion of humanity as separate from inhuman nature, and autonomy and rationality as the capacity to tame the savage inside us. The concepts of civility, self-control, and discipline are productive of race, age, and class distinctions because poor, young, and Black people are deemed to lack self-control due to their discursive location closer to nature/animality (Anderson 2006). Race and poverty are linked to crime as racialized people living in poverty are vastly overrepresented in Canada’s prison population and one of the mechanisms behind that overrepresentation is expulsion from schools.
Daniel elaborated his experience. A classmate called him racist names and he responded. They got into a fight. He described how the police arrived, put him in handcuffs, and arrested him in front of his classmates. Ashraf, who was expelled in Grade 12 with only one course remaining to complete, described his response to an insult from another student at school, “I was wrong one time, I made a mistake…At that time, ego, which is something that I really hate, took over…I had not enough time to think and, boom, it happened.” Ashraf highlighted the long term effects of having to leave school, “The day we had the fight was the last day I saw my school.” He continued, “That [criminal record] really set me back. Not only from school, but from so many things…That was in 2010! And when I will finish it will be 2016, so can you imagine—just one incident, six years.” He tried a couple of times to complete the Grade 12 adult equivalent but was unable to finish it. Hassan was also expelled for fighting, “I got kicked out because of one incident—there was a fight on school grounds that [my brother and I] arranged…Then, boom, they talked to my dad and they’re like, ‘Yeah, we don’t want your kids at our school.”’ These stories raise questions about who matters, whose life is worth nourishing, and who may be permanently stigmatized as a criminal, in turn understood as a violent beast.

That racialized minorities and refugees face discrimination in their everyday lives has been extensively documented in the literature (see Chapters 2 and 3) and was repeatedly confirmed by the young people and professionals I spoke with. In the following quote, Daniel links the fear of the dark Other that scholars have identified (e.g. Chan & Chunn 2014; Mawani & Sealy 2010; Tanovich 2008) with school expulsion, interpreting the school’s response to him the following way: “Okay, whoa, we have one [Black] kid…with those [Canadian] kids and now they’re going to the same school, so why is that?” He added that when problems arise, “the first thing they’re going to say is that they fear for the safety of their kid, and it’s like, well, that foreigner kid, there’s nothing wrong with him—he needs to get some education as well.” Denial of access to education is dehumanizing and performs the figure of the “animalized human” because it establishes a separation between the educated, middle-class humans who behave “properly” and the criminalized “Black male youth” who lacks rationality, self-control, literacy, and decent comportment.

37 Once that is over, Ashraf will have to wait 10 years before he is eligible to apply for a Record Suspension.
A related reason that some young people are expelled is for consistently failing grades and for very low attendance. Others leave school when the system does not meet their needs. The distinction between being expelled for low attendance and dropping out is not always clear-cut. This was the situation for Hamdi, John, Burhan, and Issa. In these cases, the school system fails to create an environment where all youth can thrive, then blames and punishes some youth for their inability to succeed. A settlement worker, Theresa, noted that trauma is a major issue for refugee youth in high schools and is frequently met with punishment rather than assistance. She stated, “You see it a lot in classroom settings: people kind of space out. [You need to] know that he is not purposely not paying attention, but that his brain went somewhere else...I would have thought that teachers were more aware of certain things than they actually are.” Anna, a settlement worker, reflected, “Imagine, you’re struggling to hold onto something and you are going to school and, sure, you are not complying, but you get kicked out—you are disposable; you are not wanted anymore.” In general, the press has framed the issue of dropping out in terms of individual choice not to engage with schoolwork, rather than as a structural limitation of schools; the image is overwhelmingly of a deviant, unproductive, poorly motivated youth who is a threat to social stability and either on welfare or in jail (Alvi 2012; Ellsworth & Stevenson 1994; Schissel 2011). My findings underline that once they have been pushed out of school, young people become vulnerable to unemployment and recruitment into criminal activity.

Youth also pointed out that when assistance is offered it is done in such a way as to make them “stand out” even more than they already do, and therefore some refugee youth reject offers of special education services (“special-ed”) due to the stigma associated with it. The school system is organized around conformity with predefined stages based on a White middle-class model that makes special-ed unbearable. In other words, superficial efforts to assist young people who already experience stigmatization based on their race, class, and refugee status by further differentiating them from their peers, in the absence of more profound efforts to address issues related to racism, bullying, and the highly competitive and conformity-based school culture, can cause further distress. Hassan described his struggles and how he eventually joined his brother in criminal activity. He told me that he could not keep up with the other students academically and so the school wanted to move him to a special-ed class. His response to their suggestion reveals the desperate need of young people
to fit in: “I’m like, ‘No, no, no...I’m not having that! I’m not special! I’m normal; I’m not like that.’” When he was put into a special-ed class anyway, he began skipping and selling drugs. After that, Hassan found himself in group and foster homes, homeless, and in and out of jail.

Other youth also described their difficulties with school work. Fayyad, who struggles to read or write, told me, “I can’t look at a paper for a long time.” Similarly, Daniel stated, “When I look at a paper, it just mixes up.” Anna, a settlement worker, lamented that there are many young people struggling but when MCFD gets involved “there’s no cultural competency to allow a conversation around, ‘This person speaks this language and you are mandating them to go to school in this language, and she or he’s not successful; we need to find out why.’” However, settlement and youth workers emphasized that young people who are expelled usually want to be in school because their peers are there and they feel left out. However, access to education is conditional on conduct defined by middle-class norms that result in some youth being denied the opportunity to learn, with potential long-term effects on employment prospects.

Low levels of education are among the greatest barriers to employment, socio-economic advancement, and social well-being (Ivanova 2011; Wilkinson et al 2013; Yan et al 2012). William, who works in the SWIS program, told me, “If kids don’t finish high school then the risk of seeing them one day in prison is extremely high.” He also discussed the limitations that schools face. He asked,

How do we address the issue of a child who is separated from his dad for the last five or six years and he gets so mad and angry at everybody, and the only place he feels comfortable is with those gangs because he wants to hit somebody, he wants to do something? …How do we address the mental health issues of people who have been living in refugee camps for years, or prior to leaving their country have seen traumatic events; for example, somebody saw his dad killed in front of him or her?

He concluded, “It’s so complex that I think sometimes we just look at things and say, ‘There is nothing we can do.’” These are policy issues. Arranging the school system in other ways could result in different perceptions and outcomes.

Discarded by mainstream society and schools, young people fall in with other excluded persons and desperate people are taken advantage of by members of their ethnic community who have also not integrated into mainstream society. William, a SWIS worker,
drew a direct link between educational policy around graduation requirements and recruitment into criminal activity, “Based on what I see every day, kids who arrive…at the age of 12 and above will be in trouble because they will most likely not be able to finish high school and graduate. They become targets of gangs around the school because [the gangs] know that [they cannot graduate] and we can see them trying to recruit around the school.” Suliman, a youth PO, reflected on how bullying at school pushes young refugees into the criminal justice system through exploitation, sometimes by members of their ethnic or linguistic community. He suggested that young refugees who are bullied usually have “nobody to speak up for them” because they likely do not have access to advocacy from their parents who may not speak English or be aware of what is going on, and may not have money for extracurricular activities.

Respondents described many instances of young people being taken advantage of. Even though exploitation is acknowledged as a problem, the young person still winds up with a criminal record. Issa, a Somali youth who came to Canada in 2009 and was expelled from school for repeatedly skipping class was recruited in the ways described above. Susan, a settlement worker, shared, “Somali and Iraqi youth will do what they feel they need to do to fit in. They’re targets, very easily victimized and used in the drug trade or recruited into gangs.” Her colleague, Amran, noted sadly, “They came from a refugee camp to Canada to get help and they end up in jail, so it’s very sad.” Deckha (2010) and Razack (2008) argue that Others perceived to threaten the liberal order include individuals construed as criminal, terrorist or migrant threats. As such, they are frequently contained in camps which, in Razack’s terms, represent an “ominous, permanent arrangement of who is and who is not a part of the human community” (2008, 112). The youth I spoke with share those identities and in the Canadian context prisons serve the function of the camps Razack examines. Inhabiting the racialized and dehumanized identity of the refugee, the youth I spoke with become “expendable throwaways” (Scott 2000, 195).

Criminalization and expulsion from school can also lead to the breakup of families. Relationships between the young people I spoke to and their parents fell along a spectrum. Hassan and his dad had a violent relationship. Dani assaulted his mother but obviously loves her more than anything and is devastated by their separation. Fayyad has a poor relationship with his mother. Daniel felt that his parents had abandoned him; they now live in Ontario.
Issa lives with his parents but the relationship is deeply troubled. Hamdi lives with his mother (when she is not kicking him out). Abbas, Dani, and Raffi were living in safe houses and had “no-goes” to their parent’s homes. Almost all the youth I spoke to had been kicked out of their parent’s house at some point, often as a result of being expelled from school and/or being charged with an offence.

Raffi hates his mother. He stands out as was the only young person I spoke with who vehemently denied he had committed the assault he was charged with. His story was compelling. In brief, he explained that his mother and step-father claimed that he had assaulted his mom because they believed it would result in him being immediately deported back to his home country. Whether he assaulted his mother, or whether his mother made up the story as he claims, the case demonstrates extreme family stress.

It seems as though criminalized refugee youth are considered disposable not only by wider society, but also by family members, especially parents. For example, when I asked Daniel how his parents felt about what happened with him at school, he explained they kicked him out of the house, telling him, “We didn’t bring you here to see you fuck up.” As I argue in the following chapter with respect to violence, although the treatment of young people by family members is not an aspect of state humanism, it nevertheless forms part of the discourse of disposability and contributes to further marginalization and possibly criminalization as homeless youth are more likely to be caught up in the criminal justice system (Alvi 2012).

Kirstin, a youth worker who formerly worked at BYCC, connected trauma and family breakdown with criminal involvement,

If you’re bouncing to and from foster homes, you have no social collateral then, right. But if you’re ‘the kid that steals,’ or you’re ‘the kid that runs with that scary kid,’ then there’s some social status in that…They weren’t good in school and they don’t play a sport and they don’t have parents that care about them, but they’re a drug dealer, they’re scary, or they’re this or that.

Rejected by school and then by family members, some young people are pushed into criminalized activity, which produces further marginalization and dehumanization. The result is the production of a dehumanized figure defined by gender, race, age, refugeehood, and class which through the mechanism of criminalization becomes disposable.
Rejected by the Labour Market

Saskia Sassen (2014) describes the condition of “expulsion,” by which she means the point at which some people stop counting; those who are expelled do not matter. Their condition is so extreme that the language typically used to describe it becomes inadequate. For example, people experiencing long-term unemployment eventually become statistically invisible; although they are still there, they are no longer counted in statistics. The term “unemployment” is insufficient to describe what they are experiencing because unemployment has a connotation of temporariness. They are not simply unemployed; they have been “expelled” (Sassen 2014) from the set of bodies that matter. This is the situation for the youth I spoke with.

In the previous chapter I described the ways in which criminalized refugee youth’s human rights are denied when they are discriminated against in the labour market on the basis of their criminal record. Here I revisit the theme of employment with the aim of showing how racialization and refugee status function within state humanist institutions to further dehumanize the criminalized refugee youth I spoke with. The criminalization of poverty disproportionately affects racialized people because they are overrepresented among poor people. Such inequality is intensified by discrimination based on the existence of a criminal record, which is a more significant negative factor for Black than White people when searching for employment after release (Pager 2004). Fayyad asked, “Who’s going to hire me with my teeth like this? It’s all about appearance—a Black guy with no teeth, and a criminal record...It just doesn’t happen.”

Apart from selling drugs, only one youth I spoke with had had a regular job. As young people, they would not be expected to have a career at this point in their lives, but the almost total lack of formal work experience was surprising. Hassan had been on income assistance since age 15. Most were looking for work when I met them. Youth also described their parents’ struggles. For example, I asked Hamdi whether his mother was employed and he replied, “She stays at home. She does not have the means—the capability—that could enable her to work: she has no English, no nothing, you know what I mean.” Dani and his mother shared a bachelor apartment because it was all they could afford. Burhan told me, “We were living paycheque to paycheque and my parents were struggling just to keep a roof

38 Fayyad’s teeth were knocked out by the police.
As noted in Chapter 3, an important factor in poverty among GARs is the transportation loan. Issa’s father, Nasim, who works casually and part time to support his wife and four children, lamented, “The total is $10,000. I paid almost $4,000, but now I can’t pay any more...because what I’m [earning] is not covering even the most basic needs of my children.”

Nasim expressed his frustration and disappointment, “When you come from other countries, you will become foolish [useless] here...I am struggling with my life; I can’t increase anything.” He added bitterly the speculation that the Canadian government “likes people to be on welfare, or to be somebody who is just struggling and getting $600 after two weeks if they work like me.” His comments recall the claims made by Deckha (2010), Ko and Ko (2015), Kapur (2006), and others that the ideal human figure of liberal humanism requires the production of an inferior Other against which to define itself. In my analysis, that inferiorized and dehumanized role is played by the young people who took part in this study. In addition to his son, Nasim’s young nephew is also involved in criminal activity. He connected these outcomes to the demoralizing experience of negative integration, “Some just destroy themselves inside like this young one of mine...I have got also [my nephew] here. He used to drive heavy commercial trucks in South Africa, but when he came here he was denied a driving license...He’s in the wrong hands now, down on Hastings.”

John, Hassan, Burhan, and Peter had sold drugs to make a living. They and other youth were also involved in illicit informal activities such as selling stolen goods. Informal economies emerge in response to desperate times; individuals who need money create ways of acquiring what they need when they cannot find employment in the formal economy. However, the majority of people engaged in the informal economy are there not by choice, but by circumstance (Gaetz & O’Grady 2002; Vogel 2006). This is especially the case for street youth who have difficulty engaging in formal employment as a result of their homeless status, lack of proper housing, age, incomplete education, and often a lack of ID, on top of a criminal record (CAMH 2014; Karabanow et al 2010; RCY 2014). As many of my informants told me, and which I also observed while working with James, all of these factors play a role in the marginalization of criminalized youth and are exacerbated for refugees and people of colour.

Angela pointed to the issue of “survival crime” whereby young people in low-income
families steal food and clothes and sell things at the night market to get by or to supplement what they lack at home. She stated, “It’s heartbreaking to look at those kids and to know that if they had the financial means they wouldn’t be in that situation.” She related the following illustrative anecdote, “One boy had 11 thefts in a matter of two weeks: stealing from lockers. When we looked at what he was taking—Tim Horton’s cards and runners—it was just stuff to make money. So, ‘What are you missing?’ ‘Well, we don’t have any food in the house.’ For him, the need outweighed the consequences.” As people under 18 these children are criminalized and permanently stigmatized for trying to survive the situations that adults put them in. These are policy choices that draw on cultural frameworks and have material effects on young people’s lives.

John connected intergenerational poverty with racism and unemployment. He recalled that growing up he dreamt of becoming like his rap star heroes and was influenced by lyrics about “getting to the top” by selling drugs. He stated, “[Rappers] paint a vivid picture for the young people, for the refugees who don’t fit in anywhere else. White people get caught up in it too, but they have other role models to choose from; for a young Black person, you identify with them because of their nationality.” The lack of positive role models for Black youth highlights the importance of history in contemporary experiences; although Black people are no longer defined as legal property in North America, they continue to struggle with old stereotypes and the legacy of slavery in the form of intergenerational marginalization. The policy performances that create disposability thus serve as “citational chains” (Pratt 2009, 527) embedded in historical understandings of Blacks, Muslims, criminals, and other dehumanized identities.

John insisted that in their hearts young refugees have the intention to make their family proud by studying and working hard, but all too often something happens along the way to pull them in a different direction. He told me, “The number one main reason why immigrants in Canada go to jail or get locked up is because they are trying to fit into the ideal Canadian life, nothing more, nothing less...They didn’t come to Canada to be criminals; it’s them coming here and seeing that life.” The life they see is that of the ideal human citizen subject defined as White and middle-class and therefore unobtainable. John explained that refugee youth face numerous roadblocks including unemployment. Some apply for student loans or welfare but are turned down. He said that at this point some youth just give up: “If I
can’t go to school…then I might as well sell drugs, I might as well become a stripper, I might as well work for this guy, I might as well...’’” He described the dilemma they face: “‘Wow, I’m struggling here too! Am I going to keep living the way I did back home or am I going to make myself something here?’ To tell you the truth there is no other thing to do—either food bank, you panhandle, or you sell drugs or something, but all those things are leading you to one place and that’s the criminal system.” Settlement workers confirmed the difficulties that John refers to with respect to accessing income assistance (see also Hiebert 2009). They also noted that some youth may not recognize a significant distinction between the degradation entailed by begging for welfare and that which arises from working in the informal economy of the streets.

Rejected by labour markets and the education system, the criminalized refugee youth I spoke with are left to flounder in unemployment, poverty, homelessness, dependence, and illiteracy. Desperation and marginalization, as John suggest above, frequently lead to involvement in the criminal justice system. The literature reviewed in Chapter 3 also underscores the links between marginalization and criminalization. The effects of criminalization are dehumanizing in that they include the denial of rights, the non-acknowledgement of individual circumstances, and subjection to violence, as these are ways in which non-human bodies are treated. These conditions further entrench disposability. The politics of disposability depends heavily on the race-class-gender-species system that in turn depends on the humanist figure of Man, whereby to be not-Man (not White, not middle-class, not autonomous, not able-bodied) is to be not-human (Wynter 2003). Salih (2007a) suggests that the task is not to determine what a human is in objective terms, but to understand who is recognized subjectively as a human being; the anthropological machine animalizes some humans by characterizing them as animalistic. This process is constitutive of humanity because it distinguishes between humans and Others (Agamben 2004). The humanist “symbolic economy” permits harm to humans by marking them as animal (Wolfe 2003, 6); in other words, they are not acknowledged as human. Following from this, the perception of the youth I spoke with as criminal Others who are less rational, akin to animals or closer to nature justifies their construal as disposable because that is how humans treat non-human bodies. The discourse of disposability operative in the lives of the youth I spoke with
performs the dehumanized figure by defining them as bodies that may not be recognized as human.

7.3 Stuck in the Revolving Door

John emphasized a sentiment shared by other youth who took part in the study as well as by the professional stakeholders I interviewed: “Once you are in the criminal justice system, you are in—you’re stuck.” This is due to the revolving door of probation, surveillance, and the system of breaching that make it difficult for some young people to exit the system entirely. Breaching court orders, especially in the context of language difficulties, trauma, and being new to Canada is a major issue: one charge leads to another and it is common to end up in jail for breaches of probation. Alex, who works with youth in the criminal justice system, summed up the frustration expressed by many of the youth workers I spoke with, “The number one reason why kids are charged or incarcerated is breach! It’s ridiculous.” He noted a trend of children being on probation from age 13-18; the day they turn 18 and breach their probation the entire period becomes one open adult criminal record. However, youth workers and POs stressed that young refugees tend not to be aware of how the process works. A youth worker, Miryam, suggested, “It’s hard to step back and look at the big picture when you’re so unclear of what that picture looks like.”

Burhan’s experience illustrates how things can spiral out of control due to lack of understanding. He recalled,

I got a sentence of three years: eight months deferred custody and the rest was probation, with ISSP.39 Being 12 years old and getting a sentence like that, you don’t take it seriously. Because I was so young, I didn’t get what ‘breaching a condition’ means...So then I started getting more charges—breach charges. The first time I breached...they released me, so I was like, ‘Wait, how does this work?’ ...I thought I was beating it every time by getting stopped and arrested, and then given conditions when they released me...But then it got to the point where I actually did a month and a half when I was 13, in jail.

Fayyad has at different times been under numerous probation and bail conditions. When I asked him whether he followed the conditions, he answered, “There’s not one person in this world that can follow that...Don’t drink, don’t go there, don’t walk with somebody, you

39 The Intensive Support and Supervision Program (ISSP) is a gated program (see note 30).
know what I mean? Or you don’t even know what you’re supposed to do and then you’re up against the wall. Instead of helping, they destroy you.”

Derek, a youth custody advocate, described the revolving door for youth in custody. He told me that most of the young people he sees are continually in and out of jail, suggesting, “It’s a rotating cast of characters.” When I asked him whether he saw changes over time he replied, “There doesn’t tend to be a huge focus on rehabilitation per se; they’re in there for the same things they’ve been doing over and over again, and that’s a testament to our failure.” Suliman, a youth PO agreed, “It’s really difficult to get out of the system entirely.” John shared his experience and also referenced the devaluation and disposability of dehumanized life, “As you progress to [adult custody], you will meet a lot of the same young people because they still haven’t left that life either. I’ll tell you, all the times I went to jail I saw the same group of kids every year! A lot of those kids aren’t here today.” These processes accomplish the maintenance of a vulnerable population that may be put away at any time; the characteristics of that population coincide with race, class, age, and gender categories that define the subhuman. The idea that certain identities are closer to nature suggests that some individuals may be treated in such ways precisely because of the prevailing disregard for non-human life (Sundberg 2011).

There are innumerable reasons why a young person might breach their conditions. Dani shared the following anecdote about arriving late at the safe house and going to stay with his mom, who was the only person he knew, but with whom he had a no-contact condition: “It was a breach, but I just didn’t know what to do…I went to my mom and asked her to call my PO and say that I’m just going to stay for one night and look for another place to stay tomorrow…As I walked out of the house in the morning to go to school two officers showed up [to arrest me for the breach]. That was exactly the worst time in my life, ever.” Raffi, who also had a no-contact order for his mother (based on an accusation that she made against him, and which he denies), was breached and sent to jail when he called her on Mother’s Day. I asked what was going through his mind when he called. He answered, “I was at the safe house and all the other kids called their mother, so I said…‘This is my mother—I have to call her. I don’t care what she did before; it’s Mother’s Day.’” These examples also point to the ways in which the criminal justice system works to deny family
contact for the most vulnerable young people. As noted in Chapter 6, this furthers
dehumanization since family is considered a defining feature of the human (Haraway 1989).

The following exchange between Ashraf and Hamdi is also illustrative. Hamdi
mentioned that he had a year and a half remaining on his probation order. Ashraf told me,
“What happens is that just when this year and a half is going to finish, or even half way,
something else will happen [to cause a breach]…It’s one, then another, then another, then
another thing, one after another, so many things.” When I asked what kind of things he
meant, he replied, “Something will eventually happen; something that you don’t expect to
have a problem from can have a problem: there could be a fight, something small…you
might not even be the one who is charged, but…you get in trouble just for being there.” He
described his situation, “One charge has lasted three years—you are almost done and then
one small thing sets you back: bail, probation, back to court, back and forth. It affects you
mentally, big time, your confidence, your everything.” Hamdi confirmed his analysis,
concluding, “That really takes your confidence away.”

Ashraf’s and Hamdi’s experiences also underline how a marginalized peer group
contributes to the revolving door. Youth workers emphasized that for the most marginalized
people, including criminalized refugee youth, the “choice” of who to hang around with may
be extremely limited. To illustrate this point, several of the young people I spoke with told
me, “I have a lot of friends and they all have criminal records.” John reflected that if the
people he was involved with when he was young had told him that selling drugs was a choice
and that he had other options, his life may have turned out differently. I asked him what he
heard instead. He replied, “You hear things like, ‘Here’s $150,000.’ Or, ‘Here’s a gun.’”
Sam, who works with people with developmental and adaptability issues, suggested that
these issues might be particularly problematic for people coming from Africa who are unable
to identify with a community here, noting

There are always certain groups more isolated than others and especially with regards
to the criminal justice system, they’re getting more and more marginalized…You add
mental health, then you add criminal justice involvement, then you add substance
misuse, then you add the impact of who is going to hang out with you…Unfortunately
if you are marginalized, generally speaking the people you associate with are also
going to be marginalized themselves. So what you see are these crews rolling around
and there’s just not a lot of positive outcomes if you’re rolling with the crew and
everyone is hacking the same sort of challenges that you are.
As Sam suggested, mental health is another factor in re-criminalization. He elaborated, “A lot of times people don’t have the basic capacity or supports to follow probation orders...so then there’s further criminalization that comes from a lack of competency or capacity to follow a written order.” He also pointed out that the wording of orders is prohibitive. Such wording does not open up other options, but puts the prohibited action at the front of the person’s awareness, so that they end up doing it because the ‘do not’ fails to register. Several of the youth I spoke with confirmed this issue, indicating that they would repeatedly tell themselves, “Don’t do x” and inevitably find themselves doing precisely what they were trying to avoid. Robert, who works with people experiencing mental illness who are involved in the criminal justice system, emphasized, “Persons caught in the cycle of drug addiction and poverty are frequently arrested again and again. With each arrest, one’s jeopardy increases [as] they incur lengthier and lengthier prison sentences.”

As noted in the literature reviewed in Chapter 3, sending young people to jail tends to aggravate existing problems. Stan, a VPD officer, reflected on the brutalizing nature of prison, “It’s really a brutal training ground, and the youth come out...with a wider set of acquaintances that they would have never have met in normal day-to-day life...We see this all the time: they’re only doing a little bit and then they’re with this group and suddenly it’s more serious.” Based on her extensive experience working with incarcerated men and boys, Kirin suggested that when young people are imprisoned, they are removed from their families and detached from society and have to create a support network inside. As she emphasized, this is rarely a positive pro-social\(^{40}\) support network, and impressionable young people desperate for acceptance may be led astray trying to make a name for themselves, which usually means “getting themselves into shit with correctional officials.” Hassan’s story confirms these ideas. He recalled, “I went in and I knew like six people and came out and I knew like a hundred, and I had so many connections.” He explained that on the outside he met the people he had gotten to know in jail and they hooked him up to sell drugs. Sam works with people with developmental disabilities; he told me that people with disabilities usually experience a deterioration of life skills because they are not cooking or cleaning for themselves and spend their days “eating starchy food, watching TV, and working out.”

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\(^{40}\) i.e. beneficial to others or to society generally, as opposed to anti-social.
Rather than nurturing and protecting their well-being, the criminal justice system entrenches disposability.

Kirin also underlined the ways in which going to jail can interrupt the process of rehabilitation. She explained, “Once they are on bail it’s often a good time to reflect, ‘Okay this is not what I want to be. I’ve got to do better.’ And so they’ll get a job and make changes in their life, and then all that goes to the wayside when they’re removed from society and go into jail.” It is also significant that incarcerated young people are removed from whatever family support they may have. She reflected, “Unfortunately the system doesn’t prioritise family contact and it’s expensive to call from jail....And then on the inside do they have access to pen and paper? Do they have access to a stamp to put on that envelope? Can they actually keep in touch with their social world and family?” Refugees would likely not be able to call their home country at all. Fayyad explained that contact with the outside can be easily denied, “Me, I learned; no phone, no letter, no visits, nothing. I just worked out, played cards here and there.” Kirin expressed her dismay, “Their lives are essentially being lost. There are so many things that go on inside that intentionally or inadvertently dehumanize this person.” She also pointed out that inmates are not called by their first names inside, but rather by a number or sometimes their last name, thereby further contributing to processes of dehumanization.

With respect to his repeated incarceration, Burhan explained that his parents considered his treatment to be a reflection of racism, an accusation that annoyed the representatives of the system. Burhan recalled,

When my parents said [the way I was being treated was racist], then there was a bad name put on my parents. So [people in the court] were like, ‘How can you guys not blame your son but come to us and tell us we’re racist when we’re trying to help him?’ But my parents were like, ‘How are you trying to help him if you keep sending him to jail?’

I suggested to Derek, who works with incarcerated youth, that custody is supposed to prevent re-offense, yet it does not seem to do so. He replied, “I’m not sure they’re even trying…There definitely isn’t a huge focus on rehabilitation.” If rehabilitation is not the objective of imprisonment, then what does it achieve? Punishment, permanent stigmatization, and precarity are important outcomes that perpetuate the discourse of disposal and also perform the subhuman or animalized figure of the “racialized bestial” (Anderson 2006) by
defining some bodies as excess—not worth the effort of rehabilitation—and ejecting them from the human category defined as White, middle-class, able-bodied, independent, autonomous, and deserving.

Criminal justice professionals told me that convicted individuals are “warehoused” rather than rehabilitated. Normally, things or objects are warehoused; humans are housed. Related to the concept of warehousing are the conditions inside jails, which include the overuse of segregation and force, lack of support for mental health or addiction related issues, as well as restrictions in the granting of conditional release (e.g. OCI 2013). Peter suggested, “There are gaps—there are cracks everywhere—so nothing is really going anywhere. On the inside, there is nothing really being done; people are being warehoused.” Redundant people are allowed to fall through the cracks. Paul, a prison lawyer, described some of the problems with conditions in jails, “IPOs don’t call you back; they think they’re there to punish people on a daily basis instead of accepting that it’s the sentence according to the law that’s the punishment.” Kirin works with federally sentenced men. She agreed, “With this whole ‘tough on crime’ thing...it is just about getting the bare basics.”

The animalization of marginalized beings such as the criminalized youth I spoke with permits their disposability because of the way animals are treated. Animals and criminals require “tough” treatment because they lack rationality and therefore cannot be reasoned with. The legal mechanisms for determining the treatment to which criminals may be subjected rely on judgements about the value of different life forms, which are in turn an extension of the valuation of the human above the non-human (Kochi 2009; Patterson 2002). In the “war on crime,” enemies are often likened to beasts, brutes, or animals; through these processes, the enemy becomes a legitimate target of harsh treatment requiring containment in cages (Canton 2010; Kochi 2009; Deckha 2010; Gilmore 2007). Irrationality precludes rehabilitation. These constructions perform species division through the implication that normative humans, unlike animalized humans such as those who took part in this study, do not partake in “beastly” crimes (Olsen 2014).

Access to programs while in custody is severely limited (OCI 2013). Peter explained that access to education is restricted because enrollment requires the approval of one’s PO. However, he noted, “School might not be seen as the priority for you, and the PO’s priorities determine approvals.” Paul, a lawyer, related the story of a client who based on a risk
assessment calculation was deemed ineligible for any programs because he had no other criminal history and therefore a low likelihood of recidivism. He told me, “Out comes a number and if your number is too high they say, ‘According to the program identification tool you have been screened out.’ That means there are no programs available for you: you are beyond help.” They appealed the decision but were turned down again. Paul explained what happened next: “We get in front of the [parole] board and, sure enough, the board turns him down because he hasn’t had any programming! …One board refuses to give you programs and another board turns you down for lack of programs! These are the things that go on and it’s maddening.” He added that as a result of such issues, people often reach their statutory release date without having undertaken any programming at all. Putting people in jail without an opportunity for rehabilitation is equivalent to warehousing and likely increases the risk of re-criminalization since the problems that led to incarceration in the first place remain in place.

Assistance overcoming addictions is another gap that contributes to the discourse and practice of disposability. Worse, criminal justice professionals and youth told me that, due to the availability of drugs in prison, some people develop addictions in jail. Kirin, a former CSC IPO, confirmed that people do not usually have an opportunity to address their addiction issues inside. Peter agreed, “Mostly, there’s no program—AA, NA—that stuff you had to do on your own because CSC doesn’t believe in it…They would just say, ‘If you don’t want to use, don’t touch it,’ but it’s impossible when you are in that environment.”

Despite the horror of incarceration, some young people’s lives are so chaotic that prison is preferable to the outside. Youth and professional stakeholders confirmed this. Derek, who works with youth in custody, noted that this was particularly the case for youth in the care of the ministry or coming from foster or group homes, such as was the case for most of the youth I spoke with. Sam, who provides services to people with adaptive and developmental disabilities, remarked,

It’s so sad when somebody says, ‘I’d rather be in jail.’ But when you think about it, yeah, you’re not going to have to hustle about where you’re going to sleep tonight or what you’re going to eat, and you don’t have to hustle to get money. So people get criminalized and further criminalized, and it’s less to do with the conscious decision to be a criminal and more to do with the fact that there are not a lot of other options.
Another factor behind the revolving door is that money and support upon release are often lacking (Throness 2014). Kirin, who works with incarcerated men, insisted that most people come out of prison with the hope of doing better, but it is not long before they feel defeated because they do not have the supports or resources they need. Everyone I spoke with told me that when people are released from prison they are usually released without money or identity documents, have no housing, and are on their own to deal with these challenges. People who had received social assistance before going inside have their file closed and many people lose their housing due to lack of ability to pay rent. Kirin also pointed out that if there is an active deportation order on file which is under appeal, the person in question cannot work and therefore has no way to make a legitimate income to meet basic needs. She elaborated, “When they are transitioning back into the community they usually have lost everything so they are starting from scratch. So it’s about their basic human needs, acquiring identification, food security. Housing is a huge piece.” She pointed out that people coming out of jail usually cannot access mainstream services or housing because of the NIMBY effect, but also because other services assume that because they are correctional clients that the system will take care of them, and therefore feel no responsibility. As a result, people released from prison tend to be segregated into certain areas, particularly in the DTES because it is affordable, but not necessarily safe, and also high risk because they can be triggered at every step. Kirin reflected, “Our system doesn’t allow people to live pro-socially.” Peter agreed, “There is really no work towards community reintegration. Every person has to do it alone and they have to be really strong about it. Oh, it’s tough!”

To illustrate the points above, Kirin offered a typical anecdote of a man released from Stony Mountain [Manitoba] to an emergency shelter in Vancouver, which turned out to have no available beds. The man had no ID, money or local support, was desperate for medication for his Attention Deficit Hyperactivity Disorder (ADHD), and had no medical coverage or social assistance. On his first out he sold his shoes to buy speed to deal with his ADHD. She reflected, “People are desperate but a lot of us don’t see that and [so] we think it doesn’t exist. A lot of misinformation is being fed from the government—it becomes political, but it’s not: it’s very human and it’s very real.” In other words, Kirin suggests, the political discourse denies that this is a human story, but instead one about criminals.

John described the cycle of addiction, exclusion, and poverty,
When I got out of jail, man, that’s when I started using because everybody else was locked up, three of my best friends got shot, and I was by myself in the neighbourhood...So you start doing the drugs you’re selling, then you’re short on money and you’ve got to work twice as hard, and then you get locked up and you lose everything and when you come out you still owe all that money...I tried my best to move things here and there, until I myself became an addict and then I had to go through rehab and different things until I got right, and when I got right, still I tried to push because that was the only way I knew to make money. At that point I had never worked or had a job in my life.

Expelled from education, employment, and the mainstream the youth I spoke with are always already disposable. Disposability arises from their association with the non-human category of animal/object. Since non-human lives have no intrinsic value, they may be discarded. However, they fulfill an important function as an identity against which the ideal liberal human subject may be defined. Policy plays a key role in this process by performing the disposable sub/non-human figure whose life and well-being do not matter. The law assumes that the human is an objective and fixed category whose characteristics correspond to the White, male, adult, able-bodied individual and thereby excludes Others from the privileges of personality (Naffine 2011). The logics of race, sex, culture, class, and species combine to create the basis for legitimate oppression via ejection from the master category of reason, which authorises a specific conception of the human and negative ramifications for those considered to reside outside that category and marked as nature (Sundberg 2011), including the criminalized refugee youth who participated in this study.

7.4 Stigma and Exclusion

As noted in Chapter 3 in the context of labeling theory, scholars have identified that one of the reasons criminalization tends to lead to further criminalization is because when young people are labeled in a negative way, the label affects their self-concept (Maynard 2011). The stigma attached to criminalization serves as a form of governmentality in that it leads criminalized refugee youth to exclude themselves from the limited opportunities that exist to participate in mainstream culture. Settlement workers suggested that when a youth is stigmatized they lose their identity. Through these processes, youth are hailed as criminals, a dehumanized/animalized identity that marks them as disposable. Jamilah, a settlement worker suggested, “Once a child is labeled a criminal, then they’re like, ‘Okay, that’s who I
am, ’ because they’re still trying to discover their identity at that time, and it’s like, ‘I can’t go any further so this is just how I’m going to be for the rest of my life.’” Everyone agreed that Canadian society is very unforgiving of criminal conviction. In these contexts, youth workers emphasized the sense of defeat that criminalized youth experience when they confront difficulties. Kirstin, a youth worker, affirmed, “As soon as a challenge looks too big they just say, ‘I can’t do it—how do I straighten out at this point? So I might as well not try…Screw it, I’ll just be a criminal for the rest of my life.’”

Youth’s experiences confirmed these claims. John described the effect of incarceration on young people,

If somebody’s been selling dope or drugs, or has been in and out of jail for let’s say a period of five years, [then] they are so hurt on the inside, so mentally exhausted with life, that for you to come up to them and tell them, ‘Hey, you could be a success! Here’s an application for college’…They might show you that they’re excited, but in their heart, they know they can’t do it…They’ll fail purposely; they’ll sabotage it, because jail—jail is a whole different life. People go through stuff in that jail that isn’t spoken of.

The issue of low self-esteem came up repeatedly. Rosemary, a youth social worker, noted that the youth she works with “internalize the stigma and begin to believe those negative things that somebody has said about them.” Kirstin, a youth worker, suggested, “A lot of the kids just think they’re inherently bad, and they’re not ever going to be able to be better.” Anna, a settlement worker, suggested that criminalization exacerbates challenges stemming from immigration and refugeehood, including moving to a place where they are “nobody.” She emphasized, “That’s usually the feeling that [youth] will express: ‘I am nobody here. I have no friends, I have a funny accent, I look different, and I’m expected to follow these cultural values that don’t really fit me.’” The notion that criminalized refugee youth are “nobodies” recalls Weheliye’s definition of Man as the White, propertied, liberal subject that produces those who do not conform to these features as “exploitable nonhumans, literal legal no-bodies” (Weheliye 2014, 135). To be a no-body is to be not Man; to be not Man is to be not human (Wynter 2003). The concept of criminalized refugee youth as “nobodies” also reflects the denial of habeus corpus noted in the previous chapter because habeus corpus literally means “you have the body.” In other words, it means that one is a human/person rather than a thing or piece of property (Weheliye 2014).
Referring to the bureaucratic systems that the young people I spoke with must navigate (e.g. criminal justice, education, immigration, social assistance, family services), Rosemary, a youth worker, told me that because young refugees do not understand how the systems work, “they feel ‘less than’ or inferior” and this presents another barrier to resolving the situation. I suggest that “less than” implies less than human. John elaborated,

There’s a criteria that you have to meet for everything and those who can meet those standards do it like it’s nothing, right, but for those who feel inferior...it’s almost impossible. In their mind they’re like, ‘I could never be like that.’ ...Because of the image portrayed, they lose confidence and then they’re like, ‘Wow, okay, if I can’t do that, then I might as well do [criminal activity].’

The criteria he refers to are the White, middle-class standards of behaviour, speech, and comportment that posthumanist scholars suggest define humanity (Ko & Ko 2015). The image portrayed is that of the ideal human, which criminalized refugee youth can never obtain. John’s comments also point to the low visibility of privilege to those who benefit from it.

Derek, who works with incarcerated youth, summarized some of the reasons why youth end up in custody, including “intense open racism, intense shame, dissatisfaction, and feelings of worthlessness and all kinds of terrible things.” He underlined that “so many youth have been horribly treated by adults and by the system itself.” Young people confirmed these issues. Hassan told me, “I’m really negative, that’s how I find myself. It’s like I don’t really believe in myself; I’m a realist.” Similarly, Fayyad related, “I’m paranoid; I don’t really get into people. I have no self-esteem—depression, pain, shame!” Ashraf shared his experience, “When I came here, too many things happened...I got diagnosed when I lost my self...So many times you get to the point where you are like, ‘What am I really living for? Sometimes I get to the point where I give up on life, because I think if this is the highest expectation, there is no point.” He reflected on the reasons for suicide among refugee youth in Canada suggesting, “It’s because there is no hope, no support. Or they take drugs because they have depression and they want to relieve it. Eventually they take their own life.” Describing how he felt at the point where he assaulted his mother, Dani recalled, “I was just shattered, basically. Everything I have, everything I love—gone. It can’t get worse than that.” These
stories illustrate governmentality under the discourse of disposal whereby dehumanized beings dispose of themselves.

7.5 Deportability

Foucault’s (1980) work on governmentality urges the need to see how power is exercised at the extremities through techniques aimed not at destruction or prohibition, but at the creation of a system of control that confers economic and political advantage. Viewed in this light, the aim of “crimmigration” policy is not to entirely exclude racialized people from entry into Canada but to permit them entry under conditions of vulnerability as a constituent outside, a racialized formulation ultimately predicated on the ability to define them as primitive and lacking in historical subjecthood. Power lies in their deportability rather than in outright exclusion (DeGenova 2002).

Of the youth I spoke with, only Abbas was a citizen. Peter and Ashraf had both successfully fought attempts to strip them of PR status. Daniel had lost his PR status. Dani was also a TR and his PR application was on hold. The others were PRs at the time of interview. Everybody I interviewed knew of at least one person who had come to Canada as a refugee and been deported. In order for a refugee to be deported, a Danger Opinion must be issued, stating that the person in question is a danger to society (see Chapter 3). Worryingly, a CBSA representative informed me that the number of Danger Opinions for sponsored refugees is “lower than it should be because CBSA is way behind in processing danger opinions for sponsored refugees.”

Suliman, a youth PO, shared his experience, “Deportation is definitely a key issue...We’ve had some contacts with [IRCC] and, yeah, they are removing kids! Especially to Africa and Latin America.” A youth social worker, Rosemary, related that some of her refugee clients had been deported for criminality. She described one young man’s story, “There was one guy I worked with who had a major alcohol problem, I think likely due to trauma from Somalia. He couldn’t get to appointments or deal with things, and he was deported.” Sam, who works with people with mental health issues, shared a bitter example of a young man he worked with who was deported back to Latin America and was dead three months later. He offered, “If you look at it from a very detached view, yes, he would have kept on breaking the law, kept not following through, kept not showing up—he wasn’t
grateful enough; he should have woken up every morning and saluted the flag and thanked God that he was in the greatest country on earth.”

Barbara, a former CBSA agent, described to me the process of deporting somebody. She had personally accompanied three GARs, including one suffering from schizophrenia. I asked her about the ethics of deporting somebody with mental illness. She replied,

He was a serious criminal...It basically comes down to, do you face more danger on your own or are you more of a risk to Canadian society? ...His mental capacity was not that of a functioning adult, but at that point, what are you to do? It’s a choice—they get given lots of choices; this process takes years.

In other words, the system sends some redundant people to possible death rather than investing in care or rehabilitation. Meanwhile, blaming vulnerable people for making poor choices reflects the assumption of autonomy, independence, and individual free will that defines the universal human but which does not accurately describe everybody’s experiences.

Barbara also described her own feelings, “Some of those trips were not easy and there were things that happened that I still have bad dreams about.” At the same time, she felt that in each case the right decision had been made, “I’ve spent my whole life defending this country...Everyone I ever ordered deported, one hundred percent I was like, ‘This is protecting Canada,’ [although] there were a couple where I struggled.” As noted in Chapter 3, deportations to countries such as Somalia may take place under extremely troubling and illegal circumstances (CBC 2014). It is difficult to imagine a more powerful example of the effects of the discourse of disposability on some criminalized refugee youth. Some of the young people I spoke with were aware of such examples and fear that they may be subjected to the same fate contributed to their stress and anxiety. Ashraf had been threatened with deportation when he had only spent a few days in jail for a single offence (a fight at school). He told me, “My status was permanent [PR], not citizen, and when you are permanent you are vulnerable, very vulnerable; you have nothing to protect you.” The assault Ashraf committed could have resulted in a ten year sentence; therefore his actual sentence is irrelevant (see Chapter 3).41

Another consequence of a criminal record pertains to acquisition of citizenship. From a single assault committed at age 17, Ashraf cannot become a citizen until he is at least 38 (assuming no further breaches or offences). Other youth I spoke with are in a similar

41 In a unique situation, Ashraf avoided deportation by making a successful refugee claim as a PR.
situation. John explained why he had not become a citizen, “Because of my criminal lifestyle...They were going to deport my family a couple of times, but step by step my brothers and sisters became citizens...To even think of applying for me was out of the question because...they would have probably deported me.” John and Ashraf highlight the vulnerability of deportability, even though they were not physically removed.

Barbara, a former CBSA officer who processed deportations and accompanied deportees back to their home country, described an important way in which a criminal record affects refugee youth and their families. She explained that at the outset of the process, a registered letter is sent indicating the government is going to revoke PR status for ‘serious’ criminality. Since the letter is accompanied by a deportation order (that may or may be not be enforced), it causes major anxiety for families. Barbara pointed out that once PR has been revoked, a work permit is required in order to work or study, travel is impossible because the person will not be permitted to return to Canada, they lose medical coverage, and cannot participate in settlement programs such as language training (which require PR status). She reflected,

You are an undesirable of the state: we can’t get rid of you but we certainly don’t want you here...As a mom, it would have a hugely profound effect because now your child who you probably brought here as a little kid is now a sub-entity, a second-class citizen, those things. There’s no way you can have success as a non-PR in this country; you are basically relegated to selling crack on the streets...And there are lots of people in that situation.

As disposable figures, criminalized refugee youth may be thrown on to the streets or deported to their deaths. These processes are performative of the dehumanized/animalized figure that opposes the human because they enact the conditions of non-recognition as a human being, solidifying the boundary between those who matter and those who do not.

7.6 Disinvestment in Youth

In Chapter 6, I suggested that the denial of opportunities for the youth I spoke with to share their stories performs humanism by defining whose knowledge matters. In this section I extend that discussion to demonstrate how the disinvestment in social service provision for refugee youth performs the humanist discourse of disposal by further marginalizing already vulnerable young people.
The lack of services for refugee youth identified in the literature (see Chapter 3) was also noted by my interviewees. William, who works in the SWIS program, drew attention to the limitations of funding for English Language training in schools. He suggested that research indicates approximately seven years of study is needed in order to develop a firm grasp of written and spoken English yet the government only provides four years of ELL funding per child. William expressed his frustration, “Why doesn’t the government take into account those things that we know for sure are the best practices? ...Things are known about what should be done, but for some reason governments don’t listen.” “Not listening” enables the production of a subhuman figure against which normative humans can define themselves.

Simultaneously, there is a disinvestment in families. Kirstin, a youth worker who formerly worked with youth in custody, wished for more resources for single parents and parents who experience barriers to effective parenting because this would benefit children. She rejects the notion that supporting struggling parents promotes dependence and erodes their work ethic,

The whole idea that we’re ‘enabling’ the parents, well, yeah, because that trickles down so the kids get more, so do it! People are like, ‘Well, the mom’s on welfare and she’s been on it for a while, so they don’t deserve it.’ But they need money and if there’s more money then there’s more to get food, then they’ll get better nutrition and do better in school, and maybe get better grades and then they won’t feel they have to hang out with the kids who are doing [drugs].

Drawing attention to the policy choices that underlie family poverty in BC, she suggested, “It costs thousands of dollars a month to have a kid in custody—how about spending that money on a free sports program, or housing, or nutrition?”

Kirstin pointed to the need for more programs for youth with complex needs, a concern I also identified while working with James. She noted that the barriers to accessing services are particularly severe for those with a concurrent condition. Once again she drew attention to funding priorities, “A lot of addiction services want success and they need the stats [in order to receive funding], so my client who has a lower IQ and some behavioural challenges, maybe a mental health condition, who hasn’t had success in other programs, and has a criminal charge, it’s not likely that they’ll take him.” According to Kirstin, the outcome for such youth is to “bounce from group home to group home until they become an adult and
get an orange jumpsuit.”42 In other words, funding models deny the most vulnerable youth assistance and can entail their abandonment to the criminal justice system. Underlining the need for adequate services, Alex, who works with youth in the criminal justice system, suggested, “Youth often deal with the lack of services by engaging in high risk behaviour.”

POs and MCFD social workers also face limitations. Mark, an adult PO, stated that POs do not go out in the community with clients due to the high caseloads; most of their work is office-based. Miryam, a settlement worker, confirmed the challenges around caseloads and insufficient funding, suggesting, “That’s where the government really needs to step up and put in more funding for POs because there hasn’t been a new youth PO hired since 2009 because there’s a hiring freeze. Well, no wonder youth are falling through the cracks.” She noted another concern, “It’s really tough getting buy in from [MCFD]. You go in there, you do a presentation, they refer to you for a while, and then they stop because they forget about your service, and they admit to that. There are so many cracks in the services it’s unbelievable; getting a coordinated response is difficult.” Angela, a civilian police employee, reflected, “Social workers tend to be way over capacity with their caseload” and therefore they are unable to see youth in the community as often as needed.

One thing that surprised me (even though it also happened with James) is how frequently service providers lose touch with youth who are involved in the criminal justice system. In part, this is a function of the instability that typifies the lives of criminalized young people. Another important factor in losing touch is the transition from “youth” to “adult,” at which point young people shift to different programs and service providers. Concerns over this transition were mentioned by most of the service providers I spoke with and identified by the RCY (2014; 2015a). I frequently heard the phrase, “I don’t know what happened to him after that.” Susan, a settlement worker, emphasized, “We don’t have very many long term relationships.” Alex, who works with young people in the criminal justice system, pointed out another challenge related to the transition. He noted that he often sees emerging mental health issues as youth are aging out because that is when those issues tend to emerge if they are going to. He told me, “It’s really difficult when you see a kid going downhill right before you have to finish with him, and you try and transition them to other services but they’re just not engaged because they can’t or they won’t.” The transition is

42 Adult prison dress.
based on a middle-class model of adulthood which assumes young people reach maturity and achieve independence at age 19. The result is that young people with mental health challenges are twice-abandoned in that they are both more likely to lack family support and are also ejected from programs just when they need help the most (RCY 2014). As animalized humans, it seems that young people experiencing mental illness, who lack the qualities of the humanized human figure, are therefore undeserving of its privileges.

Rosemary, a youth worker, also drew attention to the challenges of referring people without follow up or accompaniment, “We find a lot of people get lost when you refer them. Some people are very high functioning and they can do things on their own, but most people that we see aren’t that well-adjusted.” A settlement worker, Susan, agreed that the transition poses a significant problem that contributes to youth homelessness. She added, “Once they turn 19, all services are gone and they’re left on their own and not really knowing what to do. It’s scary.” Sam, who works with people with developmental and adaptability issues, described the transition thus,

A lot of the supports and services that people are accessing as an 18 year old simply aren’t available at 19. So, ‘Going to hang out at this youth center?’ Well, now you have to find someplace else to go. ‘Do you like having that social worker?’ Well, she’s no longer able to work with you. ‘That really cool one-on-one worker?’ ‘Sorry!’ So it’s a really huge transition…and I guarantee you that the challenges you had at 18 years and 11 months aren’t going to magically disappear in 30 days.

Yet another challenge arises from the reliance of low-income people on duty counsel lawyers. A legal aid worker explained that, due to funding restrictions, adults do not qualify for legal aid unless they are both destitute and also facing significant jail time. Youth are served by duty counsel or appointed a legal aid lawyer. Kirstin, a youth worker noted that wealthier parents are able to hire a lawyer rather than have one appointed by the court. She explained that having a lawyer that one pays for is beneficial to clients because juvenile defence lawyers “have huge caseloads and they don’t have a lot of time.” These issues are also identified in the access to justice literature (e.g. Farrow 2014; CBA 2013).

Relatedly, several people told me that accused people are pressured by legal aid lawyers to plead guilty. Burhan recalled that this practice caused him to lose trust in the system from the beginning: “The lawyer that I had was legal aid and he told me, ‘Take the plea deal because the Crown will drop four charges and you can plead guilty to eight.’ I was
a kid so I was like, ‘Wow, that’s a good deal,’ but I didn’t know that legal aid lawyers just
don’t care.” Youth and professionals told me that lawyers who are paid by legal aid
courage clients to plead guilty because they are not paid enough to take cases to trial.
Burhan explained that as newcomers, he and his family were unaware of the difference
between relying on legal aid and paying from one’s pocket. He recalled, “Coming from a
foreign country we were like, ‘Okay, we’ll go with the free lawyer.’...Since [I started hiring a
lawyer] I’ve been acquitted for the last five charges. You have to go through a lot before you
learn, especially coming from other countries.” These comments underline the systemic
classism that characterizes the Canadian justice system. Working-class people are perceived
in the humanist viewpoint as lacking in rationality, self-control, manners, independence, and
civilization; since they are subhuman, they matter less and may be thrown away (i.e. into
jail). When asked why he pled guilty rather than fighting charges laid against him, Fayyad
replied, “Because you have legal aid! Legal aid lawyers will throw you under a dump truck.”
However, it is not that legal aid lawyers do not care. The problem lies in the inadequate
funding of lawyers who defend poor people, which contributes to the discourse of
disposability. Meanwhile, wealthier clients who can afford to hire a lawyer are more likely to
avoid criminal consequences or are perceived as deserving lesser punishment (e.g. Comack
& Balfour 2004; Reiman 2007; Snider 1999).

7.7 Conclusion

This chapter focused on some of the ways in which the young people I spoke with
experience the effects of a biopolitical “discourse of disposability” in education, labour
markets, the criminal justice system, immigration processes, and social programming. I also
showed how one result of the stigma that attaches to criminalization leads some young
people to self-exclude. Race, class, ability, gender, and age are the proximate devices that
filter the policies and practices of institutionalized humanism into the lived experience of the
criminalized refugee youth who took part in this study. Since it is essential in analyses of
inequality to engage with the deployment of the animal as a conceptual category (Deckha
2010; Salih 2007a), this chapter urges the recognition that behind these processes of social
marginalization lurks the ideal human figure, defining who is and who is not deserving of
social benefits, and whose life and well-being matters. In other words, by defining who
counts, the processes this chapter described perform humanity and animality in the lives of the young people I spoke with. Thus, I argue what is occurring is not only social marginalization, but the re-entrenchment of the human/nature divide that enforces species-based marginalization among humans and is continually produced and reproduced as a function of the anthropological machine.

Even as the youth I spoke with are made socially (through homelessness and lack of educational opportunities), economically (as unemployable non-consumers), and politically (as non-citizens) redundant, their experiences are depoliticized in liberal discourse that rejects structural explanations for social inequalities. However, as John told me “No matter what, nobody can convince me that everybody has the same shot, because I’ve been through that and not everybody starts out on the same foot.” The disposability of criminalized refugee youth is enabled by the negation of stories (Chapter 5) and denial of human rights (Chapter 6); in turn, disposability lays the foundations for the violence to which I turn my attention in the next chapter.
Chapter 8. Subjection to Violence

“A lot of police are ‘Type A’ personalities that run on adrenaline and that’s all they want to do.” –Stan

“They’re always coming up with a new way to torture humans for free, bro.” –John

“For any immigrant on the inside it’s going to be a tough fight because they have to have wars everywhere.” –Peter

“A full analysis of the dynamics of violence against humans is precluded when attention is not given to the function of dehumanization and the subhuman figure in facilitating violence against humans...Dehumanization promotes racialization, which further entrenches both identities. It is an intertwined logic of race, sex, culture and species that lays the foundation for violence” (Deckha 2010).

8.1 Introduction

This chapter takes up Deckha’s (2010) conception of the subhuman as a violence-producing category to argue that subjection to physical and psychological violence both performs the dehumanized figure of the subhuman and is also an outcome of the “brutalization” of the criminalized refugee youth I spoke with. Before delving into my empirical findings I briefly review the literature in order to highlight violence as a material manifestation of the dominant discourse that performs the animalization of Muslims, Africans, and criminals against whom violence may therefore be justifiably perpetrated. Butler suggests, “Some lives are grievable, and others are not; the differential allocation of grievability...operates to produce and maintain certain exclusionary conceptions of who is normatively human” (2004, 20). The criminal justice and related systems perform the normatively human and non-human by defining who may be legitimately subjected to violence and death, and whose death may be grieved.

Based on their race, gender, and class identities, criminals, youth, and refugees are perceived within the humanist frame to require violence as these are the very categories of identity thought to be lacking in rationality, which is considered a defining trait of humanity. It is not possible to rationalize with irrational beings; therefore “teaching them a lesson” calls for violence. Simultaneously, to treat with violence is to brutalize or to bestialize. Razack (2008) argues that violence against Others is seen as necessary in order for civilization to
flourish and to protect citizens; her analysis highlights the dominant perception that it is “our” moral obligation to discipline Others and defend ourselves against their irrational excesses. The violence inflicted on non-human bodies is viewed as legitimate because of the non-human status of the bodies involved; routinized violence against non-humans provides both a justification and blueprint for violence against humans (Deckha 2008; Deckha 2010; Kochi 2009; Patterson 2002). Therefore, our objective should be to eliminate the subhuman category and the anthropocentric claim to human superiority from which it derives.

Writing in the US of a historical case involving an escaped slave woman and the punishment she received, Hartman (1996) suggests that since it was the slave’s crimes that were on trial rather than White offenses or state violence, the Black body became the location to which the “crimes” of the elite classes were externalized. In this way, White culpability was reframed as Black criminality, and violence became legitimated as a form of sovereign biopolitics. Her work raises questions about the construction and assumption of White “innocence.” Bringing these arguments together, I propose that a similar claim may be made here; specifically, that racialized societal violence is externalized onto the dehumanized bodies of the criminalized refugee youth I spoke with and justified as a necessary form of control and punishment that also performs their dehumanization/animalization while simultaneously legitimating White privilege.

Below, I show some of the ways in which the criminalized refugee youth I spoke with are subjected to violence from police, correctional staff, and family members. By “violence” I mean harsh physical punishment or coercion that recalls the ways in which animals are treated including, caging, beating, chaining/hobbling, physically restraining, punching, kicking, electrocuting, and shoving. In the humanist perspective, these methods may justifiably be used against “criminals” because of the association of criminality with animality (irrationality and subjection to instinct) (Olsen 2014). Incarceration is a form of violence and prison is saturated with violence from intake to release. Frequent stops and searches by police are also violent events. In addition, stops and searches are publically humiliating and demeaning; public humiliation and degradation are also forms of violence. These overlapping violent acts provoke a violent response in youth, creating a cycle of violent action/reaction that includes violence among peers and within families. A prison lawyer, Paul, suggested, “People think that escalating the punishment will make people
behave, but they don’t understand the limited value of deterrence…And not recognizing how they create more violence with those approaches. The whole thing is pretty screwed up!”

8.2 Police Brutality

During interviews I noticed a stark discrepancy between the way police officers described themselves and their work and the way that the criminalized youth I spoke with described the police. While law enforcement professionals emphasized the “new face” of policing, especially with respect to the policing of people under 18, young people stressed their many negative experiences with law enforcement. Although police officers insisted that police forces were becoming “less paramilitary” (in one officer’s words) than previously, they admitted that the majority of policing still fell within traditional parameters since, as Stan indicates in the quote above, most police officers are “Type A personalities” who thrive on excitement. Angela, a youth diversion worker with the police, recalled her early days with the force, “When I came here I was really Pollyanna: ‘I’m going to change the world,’ and, ‘Everybody deserves a chance.’ So it was a change to come into a policing world where they had a very different opinion.” In other words, the prevailing view among police is that not everybody deserves a chance.

A police officer who had gone through a transformation in the way he carried out his work described the typical attitude of law enforcement that he acknowledged still dominates the field (and which also recalls the discourse of disposal). Sebastian told me, “I was an old school cop: arrest’em, throw’em away.” However, it strikes me that even enlightened cops approach youth in a punitive manner by using enforcement (i.e. arrest) to locate youth suitable for the police youth program. For example, Sebastian stated, “My piece now is just enforcing, enforcing, enforcing, because I’m hoping to identify even that one kid that I can refer to the [police youth program].” In the process many others simply end up with criminal records.

I asked Fayyad about his experiences with the police. He responded,

They’re bad, man, they’re not cool...And the cops are huge; they throw you down, check your ass cheeks, whatever...They beat you, some of them take your money and

43 This finding may be partly a function of the limitations of my sample, as only sympathetic police officers agreed to speak with me.
tell you to go away, but you can’t say anything; you can’t snitch on a cop because
they work together—it’s a system and they’re the biggest gangsters.

I asked Burhan about his experiences. He told me that because police officers do not
attend court, they can say and do whatever they like. He wished they would refrain from
making comments about immigrants and stop the violence and threats. Pointing to the
us/them division of deserving citizens and dangerous immigrants, he explained that he was
frequently told, “You guys are just coming to our country...to rob our people.” With respect
to violence, he added, “This one cop was getting fed up with me because every time he
arrested me I’d get out, and then my PO would send him to me again. [At one point] he had
me in the cells and he’s like, ‘If I have to deal with you again I’m actually going to bang your
head on these walls.’” Although Burhan’s head was not banged against the wall on that
occasion, the threat, coming from a tall, heavy-set, White cop was terrifying.

John shared his first experience with the police, when a White officer entered his
family’s home and beat him up, setting the stage for the years that followed, “My mom
wasn’t home; my older brothers and sisters weren’t home...but my little brother was there
and he watched. He literally beat me in front of my little brother, and I mean beat me—I was
like 13 years old—punching me in my face, beating me!” He explained the effect of the
incident on him, “From that day I swore vengeance on the police! I would pop the police’s
tires, I would smash their windows, anything to get at a cop I would do. I would find out
where a cop lived and terrorize them...I didn’t care at that point.” John described other
scenes of violence:

I’ve seen cops punch kids! Do you really need to punch a kid? ...Every time I see a
cop do that it reminds me of that time when I was a kid and the way it made me feel
and then you just know that kid’s going to end up the way I did...You wouldn’t punch
your own kid like that, but it’s somebody else’s kid that you’re punching up like that
because you’re a cop.

Hamdi also experienced violence at the hands of law enforcement. He recalled being
beaten on a couple of occasions by police. Getting beaten by the police is not the same as
getting in a fight with one’s youthful peers. As John elaborated, “These people can mess you
up; they have wooden batons—maybe I can understand that, but metal batons? That’s too
much. Who would you beat repeatedly with a piece of metal?” The answer is: an animalized
being. He told me about being beaten, Tasered, and maced on different occasions,
suggesting, “They’re always coming up with a new way to torture humans for free, bro. This becomes part of the mindset of young people who are in that lifestyle, so what they do is prepare themselves for this stuff. So, in the lifestyle you’re not only fighting those around you, you’re fighting police too.” In this context it is worth recalling the evidence that police are more likely to use a Taser on poor and Black youth than on other young people (Chan & Chunn 2014; Oriola et al 2012).

Hassan shared the following extended anecdote. He and two friends were in a stolen car when the police caught them in New Westminster and beat his unconscious friend despite the obvious risk to spinal injury:

We got boxed in, cops broke the windows, and they pulled us out from the windows! It was crazy! It was me, my friend, and his girlfriend. The girl…needed stitches on her leg, I had stitches on my chin, and my buddy needed stitches on his head—he got it the worst. The minute of impact when he crashed, he was out. I saw his head, boom, bags came up; he was out. I was trying to respond, asking him, ‘Are you okay?’ And boom, right then and there the cops started smashing the windows—his window first…They didn’t even care that he was unconscious; they just grabbed him—not by his arm, but by his head—by his hair! …Then all you see is three, four cops just going at him [demonstrates kicking and punching something on the ground] …I get pulled out, I’m on the ground, my hands are all cut up, suddenly my glasses were gone…Everything was blurry and it was pouring rain…This cop comes up to me and gives me one of those cheap shots—you know when they put their knee on the back of your neck? My head smashed onto the pavement: puh-puh-puh-puh! And then I was getting a warm feeling around my lower face…The cop tries to stand me up and my white shirt is just co-o-o-o-vered in blood…My whole chin was literally split open and they’re like, ‘Whoa, okay we’ve got to take you to the hospital.’ …And after they did all that to me, they took my shoes; I had a nice pair of brand new Timberland, and they’re like, ‘These were stolen.’ Um, no, those are mine. So then once I got out [of the hospital] they’re like, boom—chain, chain, chain—chained me up, and they’re like, ‘You’re going to court…in Poco.’*44 Then I get out and I have no shoes—they literally let me go with no shoes. They just gave me those jail slippers, those little paper things they put over your foot. They’re like, ‘You can go home,’ and I’m like, ‘How am I supposed to get downtown? You guys just brought me here and I have nothing.’ They’re just like, ‘Whatever, see you later.’

Being released without proper footwear or even clothing was a common theme that frequently came up in interviews. Almost all the young people I interviewed complained that when they are arrested, or even temporarily detained, the police take their clothes, shoes, money, and anything else they have with them at the time. They are then released without

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shoes, money or clothes far from home. This can lead to embarrassing, humiliating, unsafe, and dehumanizing situations that also constitute violent acts. For example, Raffi related, “When they released me from the court I was in jail clothes. I was walking in the street and everybody was looking at me: green t-shirt, black pants, and those shoes.” Ashraf and Hamdi also shared their experiences. Ashraf began with the experience of being arrested for a robbery that he did not commit (the charges were dropped), at which time the police took his clothes, shoes, and money:

The guy was claiming that $100 was taken from him, and I had $45 in my pockets and they took everything from me, my clothes, money, and everything. They released me in prison clothes, but they didn’t even give me shoes! It was almost like being barefoot—they just gave me those cloth things, they’re like socks. That’s how I had to walk home because they had my money and they didn’t give me a bus ticket or anything. But when they release you, you can’t ask anything because they could take you back in, so you just have to leave.

He explained that this had been six weeks earlier and he was still trying to get his belongings back. The property office had his things but told him he must speak to the officer who was in charge of the case. Since the case was dropped, this seems unfair to Ashraf and a waste of time for the officer. This practice also discriminates against poor people who can already ill afford a phone and entrenches their disadvantage vis a vis law enforcement since they are put in the position of having to beg to have their own meager items returned. Ashraf told me, “I have called him a thousand times. He has never answered one single time…I have left him dozens of messages, and I only want my own things. And this happens to so many people!” He told me about some of his friends who had had similar experiences. Hamdi agreed that the same thing had happened to him, “They took my shoes, my clothes, my money—and not just one time.” Ashraf and Hamdi informed me that what inevitably happens in these cases is that the person simply gives up and never gets their property back. This is dehumanizing because it denies the criminalized refugee youth I spoke with the right to own property, which is a defining feature of the human sewn to notions of rationality via Locke’s idea that the rational development of land created entitlement to property. As Anderson (2006) demonstrated, rationality and race were conflated through the supposed transcendence of certain humans over nature and the miring of Others within nature/savagery. As persons, humans own property; Others are property.

Hamdi shared another dehumanizing experience:
One time they released me in the white prison dress—it’s not clothes, it’s very, very thin, you can just rip it like that, it’s a kind of white paper, and you can see everything through it. So I had no shoes and I had to wear that, but they also took my clothes [and] I had no underwear so I had to grab some newspapers from the street to put here [indicates genitals] and there [indicates buttocks] so people couldn’t see my private parts. That’s how they released me in Burnaby and then I had to get to Surrey like that. It was very scary.

Ashraf responded, “I was lucky—they also released me in that white thing but I had underwear on, so I was lucky...It’s so bad, I can’t tell you how that makes you feel.”

Releasing young Black men onto the street with no clothing is a violent act that is both humiliating and dangerous. It is dehumanizing because one of the marks of human civilization and respectability comprises proper clothing; conversely, animals roam unclothed.

Based on a life-changing experience with a police officer that also reveals the generalized expectation of violence in interactions with law enforcement, John had the following advice for police. He suggested that the way officers approach a situation determines to a significant extent the level of violence that ensues. He asked them,

Be down to earth, man; let your power chill for a second when you’re dealing with the people—don’t come with that skank face all the time...One time in my life I had a police officer actually come and sit down next to me and just talk to me...The way he arrested me changed everything. There were other officers there too, because I was DO’d—dangerous offender 45—but even they were just doing their own thing...He sat down and he’s like, ‘Why are you doing this?...Every other month you’re going to jail, like, what are you doing with your life?’ I was blown away!...He’s like, ‘You don’t have to sell drugs, you don’t have to be out here; there’s more that you could do.’...I let down my guard for a second and I started crying, and he’s like, ‘Why are you crying?’ And I was like, ‘Man, that was the nicest thing anybody’s said to me for a while, you know.’ At that point I was a lost cause.

When I asked Hassan whether he had any advice for police, he had a lot to say about the threat of violence and the flattening, ahistorical category of “Black:”

Police? Just stop with the stereotypes—because every time I get stopped, they’re always telling me, ‘Well, you fit the description...a Black male that’s six feet tall,’ and I’m like, ‘Why are you describing me as a Black male? Black is not a description...I’m an African so why are you calling me Black? You’re not calling this

45 Where the court is satisfied that an offender meets the Dangerous Offender criteria, the individual will be designated a Dangerous Offender (there is no discretion). The designation is for life and means that the offender may be sentenced to indeterminate imprisonment (Public Safety 2015).
guy a White guy; you’re calling him a Canadian, so why do I get that stereotype?’ I think it’s harassment.

All of the youth I spoke with shared the sentiment that, in Hassan’s words, “The laws don’t work. The police are their own law because everything they tell you to do is an order.” To illustrate, several youth shared similar stories of walking in public, being approached by a police officer, asked for ID, and searched. Having learned that they do not have to submit to a search without reasonable cause, they ask whether they are being detained. When they are informed that they are not, they walk away. Hassan told me, “And when I start walking, that’s when they grab me… ‘Ohhh, you think you’re a smart guy? How about I hold you for 24 hours?’” Similarly, Daniel told me it is at this point that the officer jumps on him,

It’s not fun when the cops come out at you like that, especially if you’re a minority, a foreigner. And if you don’t answer, they say you’re being a smartass and they jump at you and throw handcuffs on you and throw you on the pavement face-down. If you’re a citizen I don’t think they would do that.

Fayyad told me he wished police would,

Stop the abuse! A lot of abuse! ...It’s good to have a system of law and order but they can’t even follow their own book. They don’t care if you need help. Their job is to hit you with the book—to write you up—especially a young Black man. For example, you’re walking and you fit a description, ‘Hey, over here! What’s your name?’ Just walking on the street. ‘Why do I have to tell you my name? I didn’t do anything.’ ‘Oh! Obstructing...!’ ‘But...’ ‘Oh, you want to resist?’ Put your hands behind your back, start searching—that happens all the time! And if you talk they say you are belligerent, obstructing a police officer, swearing, they can say anything. You have no idea how the cops work on the streets! It’s not only what happened; it’s how they write it down.

Even when youth are aware of their rights, they are not able to access them because attempts to do so are met with violence or the threat of violence. I cannot help but think that it is difficult to imagine a White male executive being treated in this way and the explanation for the discrepancy, I suggest, lies in the discursive humanist distinction between the animalized and violent African refugee and the innocent, law-abiding, White citizen subject.

Once a young man has a criminal record, they automatically become suspects when a crime is committed, justifying further violence against them. As Hassan indicated above, they “fit a description.” Hamdi stated, “I face so much harassment by the police—they stop me for nothing. Many of them have memorized my face and they will stop me for nothing;
when I’m just crossing the street at the traffic light, they will stop me and search me.” He described an incident following a murder, “When that incident happened, they came to me and arrested me, put me in handcuffs and threw me onto the ground. I was walking on the street. They choked me. They took me to a cell in handcuffs. They detained me for eight hours, asking me questions…They took my DNA and my fingerprints.” During this time, Hamdi had no idea what was happening. A few days later the killer was located. While it makes sense to investigate possible leads when a murder has been committed, this could be accomplished without violence. Such events are so common among the youth I spoke with that they had found strategies to deal with them. Fayyad’s explanation is representative, “I learned to play the game. Before, I was belligerent—I was pissed; I didn’t even do nothing so what the fuck? How can another human being treat me like that? They don’t even know what’s going on in my life. But yeah, you learn. It’s a cold world.”

Frequent stops and searches take a heavy toll on young people. When I asked Hamdi and Ashraf about the greatest challenges they have faced since coming to Canada, Hamdi immediately replied, “It’s the system, the police, courts, all this kind of stuff—that’s what I really struggle with the most. When you are in, that’s it.” Ashraf agreed,

Yes, you know sometimes when the police officers stop you, often you are afraid to even ask, ‘Why did you stop me?’ So he stops you, he searches you, he says you are good, all for no reason. But if you ask, ‘Why did you stop me?’ he will say, ‘You are asking me why I’m stopping you? Because you are a criminal, man.’ ‘But how do you know I am a criminal? You just typed my name. And this crime—am I doing it right now?’ If the crime is in the past and I’ve been punished for it, I paid for it, but still mentally they kill you: ‘You are a criminal. You are this, that.’ Oh my God. There’s nothing you can do. What can you do?

In such ways the youth I spoke with are interpellated or hailed as criminals; they are produced as criminals. By referring to some bodies as criminal, authorities perform the production of the racialized criminal as beast or, in Anderson’s (2000) terms, the “racialized bestial.” That animalized/dehumanized, degraded, and objectified figure both justifies violence and provides a needed foil for the innocent, deserving, ethical liberal human subject.

The following exchange with Ashraf and Hamdi further highlights the frustration that youth feel. When I asked them how many times the police had stopped them for no apparent reason they laughed in disbelief and told me that the number was so high as to be uncountable. Ashraf emphasized, “There is no way you could count how many times that
happened. Could you count how many times you have eaten in the last few years? It’s like that; it’s terrible.” They informed me that constant stops and searches are a fact of life for young Black men. They pointed out that it is not only the inconvenience of being stopped, but that stops and searches involve violence, humiliation, and fear. Ashraf explained, “They will bust you in front of everybody—they will handcuff you, search you, all this kind of stuff, in front of everybody—and then they will say, ‘Get the fuck out of here,’ and nobody can help you. If they try to help you [the police] will threaten [them] or beat [them] up.” They also told me that as soon as they see a police car they become fearful and move from where they were or head in a different direction. Ashraf elaborated, “It gets you to the point where you just see a police car and, even though you were in a good mood, as soon as you see them it can just kill your mood because you know they are going to stop you. Even if they don’t, there is the fear that goes through your mind.” Hamdi related, “If I see them coming down the street I just turn and go another direction, even if it will take me out of my way. And I mean even though I have absolutely nothing to hide, I change my route to avoid them…That fear—it makes me move somewhere.” When I suggested to Ashraf and Hamdi that the police stop them because they have a criminal record, Ashraf suggested instead that it was the result of racial profiling, “No, it’s not about your record because…they don’t know who you are until they put your name in… It’s because of the colour of your skin or maybe the way you are dressed.”

Robert, who provides services to people experiencing mental illness who are involved in the criminal justice system, drew attention to the effects of fear, which essentially refers to fear of violence. Here he is speaking about the refugee experience of violence and flight, but the narratives of the young people I interviewed show that neither fear nor violence dissolve with entry into Canada. Robert suggested, “Living in a constant state of fear damages you psychologically; it takes you away from the mainstream. And apart from the mainstream there are other streams in which you can find meaning [and] validation.” These other streams include “the criminal lifestyle” which, as young people emphasized, is also saturated with violence. John described life in the violent circuits of exclusion,

I was moving absolutely everything. I was using: I smoked a lot of weed. I used cocaine when I was younger and then I stopped because I got the crap beat out of me by those I was working for...And so that was the life, and as I grew up it went to harder stuff—china white, which is heroin—and so now you’re not carrying a pocket
knife, you’re carrying a beretta… At this point there’s definitely no way out; it’s not a choice anymore because you’ve got to remember it’s not only you out there doing it: there’s other kids out there your age that are more hungry than you at times and that will shoot you or will stab you to get what you have, to show the people who you work for that they’re hungry too, right. So, really, being in the game is not a joke.

Meanwhile John also endured violence at the hands of police and corrections officials. Other youth shared similar stories of violent interactions with peers, creating an overall vision of lives drenched with violence from authorities and peers. Next I show some of the ways in which violence also permeates the interactions between the young people I spoke with and correctional officials.

8.3 Correctional Violence

I frame this section in the context of Morin’s (2015) study of the “politics of caging” in which she identifies parallels between the caging of human and non-human animals in terms of spatial tactics, disciplinary regimes, psychological experience, and ethical consequences. She argues that caged bodies in zoos and prisons are seen as wild, dangerous bodies that require caging and enclosure; inside the cage prowls a brute—a coarse, cruel, violent, dangerous beast that lacks self-control (and therefore must be controlled). In the case of prisons, this is disproportionately a young racialized man. Morin’s work shows that caging generates anxiety, neurotic behaviour, poor hygiene, despair, and sadness. Caging involves long periods of idleness, boredom, isolation, oppressive surveillance, sensory deprivation, and linguistic degeneration. Zoo and prison inmates have only their bodies with which to fight against these conditions so they “irrationally” attack their guards using their bodies as weapons, throwing feces, fighting other prisoners, engaging in self-mutilation, and refusing to eat. As Kochi (2009) also suggests, prisoners “act like animals,” making their treatment as such easier. Morin (2015) argues that violence is not necessarily a characteristic that existed in the individual prior to incarceration; rather, the behaviours that prisoners display are an expression and outcome of the prison system, created by the conditions of caging. However, the public rarely gets to look inside the closed environments of the asylum or the prison; this enables the concealment and reproduction of systems of violence and creates a structure impervious to criticism in which violence prevails (Chaimowitz 2012; Joseph 2014). Given this invisibility, the public cannot understand young men’s violent reaction to police and
correctional officials. Meanwhile, according to the narratives of the youth I spoke with, prisoners’ voices are dismissed and “delinquents” blamed for their plight.

Like regular prison, remand is a violent place and a fruitful recruiting ground for gangs (Throness 2014). Paul, a prison lawyer, described the violence inherent in both remand and prison, where units are controlled by gangs and a new arrival faces the challenge of entering a dangerous community without knowing who is who. The worst part of a sentence is the first few months where the new arrival figures out where he fits in and learns the rules, including what happens to informants. Paul emphasized the power of the con code, noting that is not much different from other professional codes, but is more powerful because everybody is living on top of everybody else. He explained that the code is so powerful that a guard could beat a prisoner and prisoners would not report the guard that did it. Meanwhile, in remand there are new people coming in and others leaving daily, yet there are also people there for years. As a result, Paul summarized, “It’s a pretty volatile watch-your-back-constantly type of situation.”

Maria, a health worker and former court worker agreed that refugee youth are vulnerable to violence in jail because they are new and inexperienced, not only in prison life, but in Canadian culture generally, and are mixed in with more experienced prisoners who test them in different ways. She emphasized that the challenges of being new are overlaid with racism. Settlement workers also understood jail to denote a traumatic experience for refugee youth. Miryam, a settlement worker, stated, “A lot of traumatic things happen in prison and for somebody who is already so traumatized to come to Canada and be further traumatized…Just that immigration experience is tough enough and then being in a jail here!” They related some of the incidents that their clients who had been in BYCC had shared with them, including stabbings, beatings, a microwave thrown at somebody, and a gym weight deliberately dropped on somebody’s foot.

Derek, who works with youth in custody, told me that at the custody center the refugee youth tend to be “really quiet, really stand-offish, very suspicious, very closed off and hard to connect with.” He described a palpable sense of alienation. Derek also mentioned allegations of racial segregation in “Venture,” where the “bad kids” are sent. He related, “I have been in there when there have been five people of colour in Venture, so it was full, and none in the rest of the custody center.” Based on his experience of racism at the hands of
prison staff as well as other inmates, Peter concluded, “For any immigrant on the inside, it’s going to be a tough fight because they have to have wars everywhere.”

Burhan described how he felt the first time he went to jail as a youth: “It was my first time going in and I didn’t know how it worked, so I didn’t know how to talk to people or anything and I got into fights right away. So that didn’t work out very well for me.” Raffi took another approach, illustrating how the prison environment encourages the development of an aggressive attitude: “I’d seen in movies that the first time you go to jail you need to be strong; if you seem weak they will bother you every day. So I was strong, and when some of [the youth in my unit] asked me questions I said, ‘Hey man, you ask so many questions!’ So they were surprised.” Eventually Raffi made friends with some of his fellow inmates. His response to my suggestion that he exercise caution in hanging around with people he met in jail underlines the ever-present potential for violence, “You think I will meet them when they get out? No. In jail...they were protection, but I’m not going to call them again.”

Fayyad was imprisoned numerous times. He described his experiences in jail and the violence that characterised his time inside,

They destroy you…Oh my God, you have no idea the abuses that go on in correctional facilities...And they fight! Them? Wooooo! You say one word, they go together—boom. The correctional officers...are the worst! Power! ‘Oh, you crossed the line, get the fuck up!’ What! And you’re already stressed out—you’re locked up 23 hours a day, you come out half an hour for a shower. They beat you up all the time: ‘Oh he’s resisting,’ boom, boom, they take you out, throw you in the hole; that’s what happens.

When I asked Fayyad if he had done time recently, he responded, “Hell, no! I stayed away five years— ‘Bend over, touch your toes’ —uh-uh, that’s over.” Drawing attention to the effects of violence on his body and mind, Fayyad told me about his many wounds from two surgeries, nine stabbings, four times being ice-picked, and countless concussions and beatings. He stated, “I can’t smell, I can’t taste, sometimes I eat words—I forget what I’m saying...I have scars on my face, and Black, and no teeth, and crippled, and a record. Whew, a lot of emotion!” By including Blackness in a list of physical deficiencies alongside a criminal record, Fayyad explicitly connects ability, race, and criminalization with disadvantage.

Burhan found that to some extent the way the guards treated him depended on his behaviour, “If you act in a certain way they’ll be like, ‘That kid is going to come back so
we’re not going to treat him any good.’ When they see that you are all quiet…then they treat you different. But then when I went, I was trying to fit in, so I was trying to make friends and I was trying to talk and all the guards are like, ‘This kid is going to be back.’” According to Hassan, “Guards—they can be assholes, but everybody in jail’s an asshole, that’s the way I see it; everybody’s trying to work their territory.” Derek, a youth worker who often visits youth in custody, provided a more balanced analysis, suggesting that while some guards get along well with youth, others become involved in fights and assaults with the young people they are supposed to be supervising. The fact that there are a few “nice” guards in a situation of generalized violence does not undermine the dehumanizing effect of incarceration, and can serve to increase psychological control similar to the ways in which the good cop/bad cop dynamic functions.

Ashraf explained how the violent conditions in prison impact court outcomes, relating to me that even though his English may be sufficient, he requests an interpreter for court dates because he feels terrorized. He elaborated,

> When you are in jail they terrorise you so that even though I have enough English to explain things well and understand very good, but because they terrorise you then you feel that you cannot speak...It’s the way they act. And then in the court there are some cells where you will wait for your case—you’re going to be sitting in an empty, small room that is very cold. They put on purpose the air conditioner very cold! On purpose. And you will be so freezing [that] you will be damaged mentally—I don’t know how to describe it. And they are saying, ‘Do this, do that.’ …You become so unconfident—you are terrorised; you can’t understand…You are not yourself at that time, and the judge and everybody are all watching your lips; you just don’t know what to say sometimes [and] you might say something that will get you into trouble because of how they treat you.

He also mentioned that while in custody waiting for his case to be heard, he has been unable to eat because the food brought to him inevitably contains pork which he does not eat. However, he emphasized, that “When you try to explain something, you are just a prisoner so your words are not going to be listened to. The guard will never even talk to you.” Dani agreed that the temperature of holding cells was kept extremely low. Because he was shivering, he requested a blanket, which was denied: “I was freezing to death. I had a tank top, and everything was so cold! The air conditioner was on and it was a rainy day and I was freezing inside that stony place.” Although his request was denied, on his way out he noticed a large pile of blankets, suggesting that he was deliberately allowed to suffer.
As Fayyad mentioned above, and as numerous reports by the OCI and other analysts confirm (see Chapter 3), solitary confinement is commonly used, especially, but not exclusively for people experiencing mental health issues (e.g. OCI 2013; Paperny & Cain 2016; RCSC 2014; Silverman 2014). Paul, a prison lawyer with 40 years of experience, suggested that the experiences of Ashley Smith46 were representative. He affirmed, “Long time solitary confinement is a big issue…If they get somebody who’s mentally ill, they just don’t know how to handle them properly…In the old days they used to throw people in the hole—and they still do that!” Robert, who provides services to mentally ill people who are involved in the criminal justice system, agreed that if somebody is clearly identified as mentally ill then they automatically go to segregation rather than to the regular jail. He emphasized that neither option is likely to be easy for those who do not conform to normative human behaviour or appearance. The author of a provincial report on the conditions in provincial institutions noted as she toured the segregation units that she “began to understand that there are some in our society who simply cannot live in an unstructured environment…BC Corrections becomes the ‘institution of last resort’ for some who are ill. Government cannot avoid this” (Throness 2014). In the humanist framework, caging is seen as the only option for irrational bodies because that is how animals are treated. However, I disagree that this outcome is inevitable.

Mental health issues could directly result in placement in custody. Based on her experience working with federally sentenced men, Kirin informed me that if somebody on parole or probation is at risk of self-harm or demonstrating suicidal ideation, then a warrant will be issued for their arrest and they will be placed in custody. Ostensibly, this is done to prevent a breach. In other words, if a criminalized person is at risk of suicide, they are jailed, but not provided with counselling (see Chapter 7). Kirin pointed out, “We exercise so much power in our decision making, being able to infringe on someone’s freedom—the freedom of their person, their freedom to be out; we exercise the highest level of control.” What is policed extends beyond the bodies of those who are criminalized to the borders of humanity

46 Ashley Smith was a mentally ill teenager who committed suicide in 2007 in solitary confinement while being watched on a surveillance camera by seven guards. By that time she had spent four years in custody, almost all of it in solitary confinement, and all stemming from her original “crime” of throwing a crab apple at a mail carrier. Her story was the subject of a CBC documentary, Out of Control (CBC 2010).
by separating free and autonomous individuals from those whose movements must be constantly surveilled and controlled through coercion and violence.

Another challenge arises for people suffering from addiction because they do not have access to the drugs they need, including to prescribed medication, which, based on her experience in federal institutions, Kirin considered, “inhumane.” Enforced withdrawal, solitary confinement, beatings, terror, low temperatures, and body cavity searches are just some of the violent activities that occur in prison. Prisoners may be subjected to violence because they are considered caged beasts that must be controlled; since they are deemed irrational beings, violence is required for their containment and instruction. Violence is in turn dehumanizing and produces the dehumanized figure of the criminal beast as a product of the carceral system.

8.4 Family Violence

The young people I spoke with were also subjected to violence by family members. Although not strictly a feature of state humanism, family violence is important because it is part of the humanist cycle of violence that youth are caught up in, and which is perpetrated against them by adults. The idea that it is right and necessary to use violence on children is widespread in Canada (Schissel 2011) and I suggest that this is based on the perception of young people as irrational and subhuman (Kincaid 1998). Thus, it is permissible in Canada to physically punish a child, while administering the same treatment to an adult is usually considered assault and criminalized. Section 43 of the Criminal Code reads, “Every schoolteacher, parent or person standing in the place of a parent is justified in using force by way of correction toward a pupil or child, as the case may be, who is under his care, if the force does not exceed what is reasonable under the circumstances.” The defence of “reasonable correction” has been in place since 1892 (Parliament of Canada 2008). The “spanking law” illustrates a way in which rationality based on a hierarchical separation of nature and culture sets the limit on liberal equality.

The following comments from John and Burhan were typical. John recalled, “Growing up, I can’t tell you how many times my mom beat me.” I asked Burhan if he spoke to his parents about what was happening to him and he told me, ‘No, I wasn’t comfortable telling them because I was so scared: I come from a country where you get beat.”
Hassan if he had ever called 911 to report his extremely violent father. He told me that he had called dozens of times and that the police were regularly at his house. He added, “My dad is straight up. He’s a really good intimidator. He used to tell me, ‘If you ever drink alcohol, I will kill you myself. I will go and get a gun and I will shoot you.’” Given the level of violence frequently experienced at his father’s hands, this did not seem like an idle threat to Hassan.

Family violence is also related to the stress that families face in settlement. Alex, who provides services to youth involved in the criminal justice system, pointed out that while Canadian society is very individualistic, refugee families may be coming from more collectivist societies where people do what is best for the family. He noted, “When the kids are here saying, ‘I want an iPad,’ or ‘I want an iPhone; go and get it for me,’ it’s all about me, me, me, and the parents are not understanding that ‘I can’t hit my kid now? Look what they are doing.’” Angela, a police youth worker, reflected that when parents see their children engaging in behaviour which they see as disgraceful or shaming, many parents feel betrayed and respond with violence. Family violence contributes to the generalized violence the youth who took part in this study face.

8.5 Conclusion

The lives of the young men I spoke with are steeped in violence committed by the adults in their lives, especially the police, corrections officials, and parents. Most were also frequently beaten by teachers in their home country. Institutionalized violence against young people bleeds into every aspect of their lives with the result (as I also observed with James) that their relations with their peers are also infused with violence. There is a high level of social acceptance of violence against young people which, I argue, stems from the humanist conception of young people as irrational beings. An alternative conception could view refugee youth as people with little life experience (in other words, lacking knowledge rather than rationality) who would benefit from gentle guidance and the provision of information to enable them to make decisions that will better their lives. Other categories of humanist identity (e.g. race, class, ability, gender) further mark the young people I spoke with as vulnerable to and requiring violence. Violence is also dehumanizing. Thus the subjection of the criminalized refugee youth who took part in this study to violence operationalizes
humanist categories and figures by performing their subhuman status, and reinscribing the humanized human as peaceful, rational, innocent, and law abiding.

This chapter marks the last of the “four performances” analysed in this dissertation. I have argued that through subjection to violence, the discourse of disposability, violation of human rights, and erasure of personal narratives, institutional policy performs the figures of the humanized human and the animalized human (or subhuman). These figures in turn rely on the presumption of a hierarchical relation of nature and culture, understood as mutually exclusive modes of existence. Humanized and animalized identities are continually brought into being as the iterative effects of institutional performances that organize and reproduce unequal social power relations along race, class, age, gender, ability, and gender lines (Butler 2009a). Performativity is tied to the production of subjects whose life is worthy of protection and mourning and of Others whose lives are neither grievable nor deserving of protection.

To suggest that criminal justice policy and processing is performative is to assert that criminal justice processes and apparatuses actively bring into being the dehumanized criminal identities they purport to describe and manage. In doing so, policies such as treating all convicted persons in the same way regardless of their personal background, denying access to interpretation and legal services, under-funding needed programs for refugee youth including counselling, expelling young refugees from school, permitting discrimination based on a criminal record, racial profiling, and police violence iteratively perform the boundary between humans and animals. This happens through the exclusion of some bodies from the human ontology, evidenced by the way they are treated (as animals). Criminals, refugees, women, children, Africans, Muslims, refugees and people with disabilities are all perceived as animalistic and closer to nature; they are feminized and, as such, inferiorized. In contrast, humanized humans (Deckha 2010) are figured as white, middle-class, able-bodied, and masculine and this human figure as is continually remade through the repetition of dominant norms that define how diverse bodies may be treated. The treatment of bodies that do not conform to dominant norms produces precarity and, for the youth I spoke with, also criminalization. Criminalization, which disproportionately affects racialized men, creates criminals. The result is the violent, seemingly irrational, dehumanized figure of the dark male youth that is the focus of racial profiling, risk assessment, and danger determinations. In these ways the criminal justice system performs the dehumanized figure it claims to manage.
To reflect further on the implications of these ideas, in the final chapter I summarise my findings and propose directions for further research.
Part 3: Concluding Thoughts

Chapter 9. Conclusion

“A new discourse of cultural and legal protections is needed to address violence against vulnerable humans in a way that does not privilege humanity or rely on a subhuman figure against whom violence may be legitimately perpetrated and which inferior beings may be cast as” (Deckha 2010, 47).

“Take sides. Neutrality helps the oppressor, never the victim. Silence encourages the tormentor, never the tormented” (Wiesel, quoted in Patterson 2002, 138).

9.1 Introduction

In Tolstoy’s novel Resurrection, the protagonist, Nekhlyudov, is searching for an answer to the question of why certain people are put in prison while others just like them remain at large, and even sit in judgement over them. He asks, “Why and by what right does one class of people lock up, torture, exile...and kill other people when they themselves are no better than those whom they [take such actions against]?” (2009 [1899], 403). Throughout my research I found myself asking similar questions. Whose knowledge counts? Who may be legitimately subjected to violence? Who deserves rights, and which rights? Whose bodies and lives matter? In contemporary Canada, I believe humanism provides some answers.

9.2 Summary of Arguments and Thematic Linkages

In undertaking this project I set out to learn what the experiences of criminalized refugee youth could reveal about the operationalization of humanism in Canadian institutions, and also what an analysis of humanism could illuminate about young refugees’ lives and experiences. I explored institutional humanism, which I have called state humanism, in the lives of the young people I spoke with by focusing on its role in policies pertaining to the criminal justice, immigration, social assistance, and education systems. I found that humanism is inserted into institutional practice through racism, sexism, classism, ageism, and ableism, which fundamentally depend on humanism’s separation of the human from the non-human for their meaning because they are expressions of being less than human. Implicitly raced, classed, and gendered policies perform humanist categories and
exclusions by creating conditions within which certain bodies are dehumanized/animalized and others are humanized; it is via humanism that law and the legal system become key mechanisms by which intrahuman hierarchies are reproduced and maintained. The institutional processes I examine are not only dehumanizing, but also means of policing and reinscribing the human/subhuman binary. Unsettling the discourses of humanity, animality, culture, and savagery helps explain why ideas about race (and class and gender) have been so persistent (Anderson 2006).

The discursive separation of nature and culture within Western thought depends on the absence of an overlap between categories; the division is based on ideal figurations of the human and the animal defined in terms of rationality, distance from nature, language, freedom, individualism, autonomy, and scientism. Anderson (2006) argues that humanity and animality are discursive logics that entail an overestimation of the power of the human mind in overcoming internal and external nature through reason. However, not all human groups are understood as having overcome nature and not all individuals are seen as exercising sufficient control over their inner savage; “barbaric” peoples remain closer to nature, mired in instinct and irrationality. Liberal humanism denies rationality not only to animals, but also to those who are considered subhuman/closer to nature precisely because rationality is seen as a defining feature of humanity and fundamental to the development of culture, discipline, and civilization and thus the domination of the inferior by the superior appears natural (Anderson 2006). The White male adult from a middle-class background epitomises the rational norm and on this basis, a hierarchy of race, gender, class, age, and species is constructed based on supposed rational capacity. Subject to nature’s every whim, Africans, Muslims, criminals, women, and children supposedly lack the self-control that characterizes civilized beings. Dominant notions of Blackness and Arab-ness draw on historical constructions of Africans and West Asians/Arabs that developed during colonial times, especially out of the institution of slavery, which defined Africans as chattel, and colonial relations with the Middle East, which Said (1979) analysed as Orientalism. Since the denial of humanity to non-Western peoples was a central aspect of colonization, most postcolonial and antiracist scholars see the struggle to assert a common humanity as a crucial aspect of anti-colonial discourse. However, this conceptualization neglects the discursive site of the human constructed in classical and Christian humanism against nature. A posthumanist
perspective addresses this gap by pointing to a deeper crisis of what it means to be human. Just as racism does not reside in difference per se, but rather in an appeal to difference, so does humanism entail an appeal to difference between humans and other life forms, in all their diversity. “Animal” does not refer a specific being, but to all beings that are not humans (or plants, although the division between animals and plants is also ambiguous, e.g. Scamardella 1999); the category serves as a discursive repository into which humans place certain bodies in order to justify their exploitation (Deckha 2010; Ko 2015a). Correspondingly, the human is also a malleable category into which those bodies that may not be exploited are emplaced. “Human” and “subhuman” are thus functional devices that prescribe differential treatments for earthly creatures. However, rather than seeking redress through the discursive extension of humanity to excluded Others, posthumanism questions what it is that savages have been excluded from and problematizes the assumption that humanity is fixed, ontologically given, and universalizable (Anderson 2006; Deckha 2010; Sundberg 2013). Based on these ideas, my concern is how “the human” figures in the legal and criminological frameworks that affect the lives of the criminalized refugee youth I spoke with.

The historical development of the human figure in science, philosophy, politics, and theology reveals how a particular instantiation of the human came to be constructed as the universal (Anderson 2006; Haraway 1989; Wynter 2003). This universalized figure actually resembles the White, professional men who created it. As a result, many people find that the lifestyle, behaviour, and beliefs of the universal human do not align with their reality and therefore the ideal human figure also serves as a mechanism for the construction of hierarchies among humans because the characteristics that describe the universal/ideal human are understood to exist in a hierarchical relation with their opposites: rational/irrational, civilized/barbaric, culture/instinct, subject/object. These hierarchical binaries correspond to the categories deployed to divide humans: man/woman, adult/child, intellectual labour/manual labour, civilized/primitive (Deckha 2006; Ko & Ko 2015; Plumwood 1994). The inferior categories are considered to be closer to nature, lacking in rationality, and more like animals; their humanity is in question. This may sound absurd—of course they are human! However, Africans, “Orientals,” women, children, and people with disabilities have
only recently been recognized as such. The ontological status of the human is not at all clear. Deckha’s (2010) matrix of humanization and animalization captures this ambiguity and draws attention to the fragility of the definition of the human as a species separate from all others.

Humanism also provides a blueprint for how to treat different bodies. Animals are disposable, subjectable to violence, undeserving of human rights, and deemed ahistorical beings that lack personal or cultural histories. Consequently, if certain groups are perceived to reside outside of humanity because they are irrational, hold barbaric values and inferior belief systems, and behave like animals then violence and discrimination against these groups is legitimate. In this view, non-human animals are perceived as irrational and requiring violence and control; children, racialized people, and persons with disabilities “behave like animals” and therefore deserve to be treated as such (Deckha 2010; Kochi 2009; Patterson 2002). Similarly, the concept of rationality “naturally” justifies harsh treatment for those defined as criminal because the risky dangerous Other is conceived of as being less rational and so deserving of harsh treatment. For example, Olsen (2014), Morin (2015), and Gilmore (2007) reveal the ways in which criminals are dehumanized and constructed as vicious beasts that must be caged, shackled, beaten, and denied rights. Dehumanization is a necessary part of these processes because racialization on its own is insufficiently motivating (Deckha 2010). Speciesism provides the conceptual backdrop, framing the human as the superior being and in this context, policy narratives perform raced, classed, gendered, and aged oppressions based on the ideal human figure. I focused on four performances that produce the figures of the human (as the innocent and law-abiding citizen subject) and the animalized subhuman (exemplified by the criminalized, racialized, male refugee youth I spoke with).

In proposing that policies are performative of particular figurations of the human and sub/non-human, I mean that policy frameworks and outcomes form part of the machine that determines who may be subjected to violence and denied human rights. Performances normalize the essentialism of humanist categories, including race, gender, class, age, and ability which in turn assume a separation of humans from nature. In other words, humanist identities, norms, and subjectivities are not stable or natural but are instead continually

\(^{47}\) The precise point at which a child/foetus becomes human is fiercely debated (Naffine 2012).
brought into being through performances that organize and reproduce unequal power relations. Issues of representation are based on performances that construct what it means to be human, subhuman or non-human and these roles are performed every day. It is in these contexts that policies define and reflect which bodies are recognized as humanized humans, animalized humans or animals; in other words, they establish humanization and animalization.

To point to the performative nature of policies is not to reify policy or strip it of its dynamic nature, but to draw attention to its effects. Although policy is an abstract legal concept, actual policies have material and discursive effects. For example, Canton (2010) points out that war-derived metaphors such as “fighting crime” suffuse policy debate about crime. To understand offenders in this way—as an enemy to be subdued by force—identifies them as “enemy” and as Other. For example, Chan and Chunn suggest poor and racialized people become vulnerable to criminalization as a result of being defined as the enemy (2014, xvii). In war, including the “war on terror” and “war on crime,” the enemy is commonly dehumanized by military and political leaders to create the view that they are legitimate targets of violence (Canton 2010). As Deckha (2008) and Razack (2008) argue, the use of violence against targets in war and their containment in camps and prisons is constitutive of humans, subhumans, and non-humans. It is law and policy that enable the creation of prisons and camps. It is on this basis that I suggest policy performs the dominant figurations of Man and not-Man, which rely on the humanist separation of nature and culture through their association with race, class, and gender. The experiences of the criminalized refugee youth who participated in this study provide a clear example of these processes because their categories of identity overwhelmingly correspond to humanism’s inferior subhuman categories, i.e. young, working-class, racialized (Black or Muslim), criminal, refugee, disability. These characteristics intersect with gender to create the terrifying and monstrous figure of the angry and dangerous young Black/Arab male undeserving of compassion.

Because the normalizing society defines the social enemy as something that departs from the norm, modern states must exterminate materially or symbolically those who are deemed irrational (brutes) (Goldberg 2002). In these contexts, the emphasis on policing certain groups of people and certain types of crime reflects the power of the dominant society to define what constitutes crime and punishment; racial disparities in incarceration are not
simply a measure of social inequality, but also a mechanism for maintaining racial hierarchy (Saperstein & Penner 2010; Wacquant 2004). The positioning of racialized immigrant bodies as degenerate, uncivilized, irrational, and immoral functions to mark White bodies as respectable, civilized, rational, and benevolent citizen subjects (Goldberg 2002; Razack 1999). In other words, the police, courts, and prisons are not simply technical implements through which authorities respond to crime, but a key political capacity through which the state produces and manages inequality, identity, and precarity in the context of humanism. All refugees, all youth, all Black people, and all people with disabilities do not have to be dehumanized in exactly the same ways in order to sustain the meaning and privileges of those deemed fully human. The dehumanization or animalization of even a small number serves a governance function of disciplining more “resilient” members of marginalized groups while also maintaining the openness of the category to permit the placement there of other beings in the future.

The humanist figure of Man is implicated in the concept of race because they were mutually configured in relation with each other. The concept of race divides human society into deserving and undeserving groups based on descent and the idea that some groups have greater capacity for rationality than others. However, most anti-racist analyses of dehumanization culminate with a protestation against the “offensive” comparisons of people of colour to animals. The problem with this formulation is its acceptance of the negative status of “the animal” and endorsement of the hierarchical race-gender-class-species system. Ignoring how humanity is constructed through species difference will result in incomplete critiques of human forms of oppression because these forms are shaped by dominant ideas about non-human animals. In other words, it is impossible to uproot racism, for example, without disrupting the human/animal divide (Anderson 2006; Deckha 2008; Ko 2015a; Salih 2007a). When race thinking is combined with bureaucracy, it becomes systematized and moves from prejudice to operating principle; at this point racialization (along with dehumanization) is routinized and does not require individuals who are personally hostile to Others. Institutional actors are “just doing their jobs;” meanwhile, increasing numbers of people are excluded from political, economic and social power (Razack 2008). They are part of a system, cogs in the anthropological machine that performs the dehumanization of the
youth I spoke with by configuring them as beings whose knowledge and well-being do not matter.

To make this argument, I analysed four performances: the erasure of personal histories, the denial of human rights, the production of disposability, and subjection to violence. I call these outcomes “performances” because they produce effects in terms of defining whose bodies and knowledge matter. The human and the subhuman are accomplished through the enactments of policies that both draw on and reinforce humanist exclusions. I began by highlighting some of the ways in which institutional processes negate the personal histories of criminalized refugee youth. A key question raised by this analysis concerns who counts as a legitimate producer of knowledge and why. I argued that the erasure of young people’s stories is dehumanizing in that it accomplishes the removal of criminalized refugee youth from the category of the human by animalizing young racialized male bodies through the denial of voice, history, culture, and language. Only humans are taken seriously and get to be heard; the closer one’s status is to the “animal,” the less one matters (Deckha 2010; Ko 2015b). Foucault defined subjugated knowledges as those “that have been disqualified as non-conceptual knowledges, as insufficiently elaborated knowledges: naïve knowledges, hierarchically inferior knowledges, knowledges that are below the required level of erudition or scientificity” (2003, 7). Crucially, the scientific obligation to objectivity positions particular bodies as legitimate producers of knowledge, and others as illegitimate. Objects do not have a voice and do not actively contribute to research, policy or science because, by definition, an object has no agency, humanity or spirit (Smith 2012). The criminalized refugee youth I spoke with are silenced and denied a voice; as sub- and non-human beings are not considered to have a history or important personal experience or stories. Their knowledge is devalued because of who/what they are. Subjugated knowledges are those held by women, children, racialized people, animals, the entire other-than-human world, criminals, and so on, in short, the very categories of being that are excluded from humanity proper.

Building on these ideas, I looked at three ways in which young people’s personal histories are disregarded. I turned first to the rejection of refugee status as a meaningful consideration in institutional processes, which is part of a larger rejection of structural explanations for inequalities that also implies ignoring trauma as an integral aspect of refugee
experience. These processes are related to the criminal justice system’s focus on offence rather than offender characteristics, which promotes criminalization and punishment rather than the extension of compassion and support. Contrary to the popular liberal belief expressed by many in the criminal justice system, the fact of being a refugee matters. Its significance is not as a causal factor, but in creating the marginality that tends to be over-policed and criminalized. Next, I examined the lack of opportunities for young refugees to talk about or work through their experiences and accompanying unrealistic expectations of youth in social service programs, arguing that these conditions are the result of policy choices that deny young refugees adequate opportunities to process what they have been through, whether through counselling or other programs. Finally, I suggested that when adults with authority over young people, such as teachers, school administrators, MCFD social workers, and POs reject young people’s explanations for their behaviour, they dehumanize them by denying their knowledge and experience. These conditions are the outcomes of policy decisions that structure institutions in particular ways, resulting in the negation of young people’s experiences by middle-class, professional, adult authorities. Their stories may be dismissed because of the broader overarching narratives that frame racialized youth, refugees, and criminals as subhuman. Since voice/language are defining features of humanity, the erasure of the personal and cultural histories of the criminalized refugee youth who took part in this study performs a species distinction among humans by denying those youth a fundamental feature of humanity (as understood in humanist discourse), namely a meaningful personal history or voice, thereby placing criminalized refugee youth at the margins where they provide a convenient foil for “proper humans.”

Next, I looked at the denial of human rights as a humanist performance. Modernity is ordered through law via state creation of legal categories, including personhood. Rationality and equality are central to these questions because rationality, delimited by the concept of race, sets the limit on liberal equality (Goldberg 1993). Human rights do not apply to all beings but only to those with the capacity to exercise them, which means those that are deemed human (legal persons). Animals (legal property), in contrast, may be enslaved, confined, tortured, maimed, and killed with impunity (Patterson 2002). The decision not to apply human rights to particular bodies is one way of expressing whether that body is deserving of personhood (Naffine 2011; Razack 2008). In other words, the institutional
repudiation of human rights for criminalized refugee youth performs humanization and animalization by defining who deserves human rights.

I focused on seven rights, beginning with the right to be aware of and able to access one’s rights. I argued that as newcomers and young people, refugee youth are not aware of their rights in the same way that a person born in Canada might be; the decision not to make every effort to ensure they are aware of their rights amounts to a denial of rights. I also looked at the right to trial in a reasonable time, to interpretation/translation in criminal justice processes, and to legal counsel; all of these rights are regularly violated, according to the youth and professionals I spoke with. Denying these rights ensnares some young people in a vicious cycle of incarceration and marginalization. Lengthy delays in court cases also contribute to marginalization because of the almost endless opportunities to breach conditions. In contrast, middle-class English speakers have a much greater opportunity to avoid criminalization, a point which is reflected in criminal justice statistics (e.g. Comack & Balfour 2004). I also examined the right to non-discrimination on the basis of a criminal record, arguing that although this right is not enshrined in Canadian law, the practical impossibility of obtaining a Record Suspension in effect permits discrimination to persist throughout one’s lifetime, resulting in the denial of housing and employment. I looked at the right to not be racially profiled, finding, as many other scholars have, that this right is frequently ignored or its denial is accepted as necessary in order to protect innocent citizens from dark, risky Others (Henry & Tator 2006). Finally, I looked at economic and social rights, including the right to live with one’s family and to shelter. Traditionally, in humanist thought, an important defining feature of humanity is the nuclear family as this separates humans from the primitive family arrangements among savages and animals (Haraway 1989). Shelter is another feature of humanity typically imagined as separating “humans” from “animals.” Consequently, denying these rights to some young people performs their animalization, constructing them as subhuman beings without family ties or decent shelter.

Over time marginalized groups have fought to be recognised as humans and therefore to be recognized as deserving of human rights (Deckha 2008). The law has gradually accommodated some previously excluded groups, but the acceptance has been slight and grudging, and may be easily retracted as long as the subhuman category exists (Deckha 2010). Given that the current liberal order not only fails to overcome intra-human injustice,
but provides the ground for it, we cannot look to liberal humanism to solve the problem of rights entitlements and access. Instead, we need a radical reworking of the cultural framework—even if we do not care about animals (Deckha 2008). And yet, Deckha concludes, “If realizing justice for all humans requires a complete reworking of our imaginations and discourses and narratives of justice in any case, we should not hesitate to insert the claims of non-humans into the mix” (2006, 254).

Together, ignoring past experiences and current realities while denying human rights creates conditions of extreme precarity for the young people I spoke with. In Chapter 7, I argued that a biopolitical “discourse of disposal” (Chan & Chunn 2014) underpins the institutional processes I describe. Biopolitics is a characteristic of state humanism because humanism determines which categories of beings may be rendered disposable. Non-human bodies are eminently disposable—billions of domestic animals are discarded (thrown in the garbage) annually because they are not wanted by humans or because they have been literally used to death (e.g. laboratory animals, battery hens, dairy cows, puppy mill breeders). That is not even considering the billions more that are sacrificed to “development,” hunting, environmental degradation, pollution, or which are raised to be eaten by humans or killed for their fur, skin, feathers, fins, fat, teeth or other body parts. Of animals raised for food, in addition to those who are killed or who die during the production process, in Canada, around one third are thrown away by consumers after processing. Animal bodies have almost literally no value. Animalization is a process whereby certain bodies are deemed to have little or no value; as such they may be discarded, left to die, or even killed.

In the humanist symbolic economy, criminalized refugee youth are not quite as worthless as animalized animals because, as animalized humans, they reside a couple of steps above the lowest rung of the humanist ranking system (Deckha 2010). However, they are not quite fully human and therefore they may be treated more like animals. Their animalistic subhuman status enables their disposability and, at the same time, institutional processes that create conditions of disposability mark and define the limits of the human. The criminalized refugee youth who took part in this study experience intense forms of social exclusion, are marginalized within every system, and are left to flounder in depression, unemployment, homelessness, ill health, and illiteracy. While the ideal human is free, autonomous, middle-class (employed, educated, housed), these young people are caged, dependent, and
impoverished (homeless, unemployed, illiterate). The young people I spoke with unanimously expressed a sense of un-belonging, of an inability to “fit in.” Expelled from schools, the labour market and middle-class, stressed out families, and social service programs, and removed physically and psychologically from society through incarceration and homelessness, it is all too easy to become stuck in a revolving door of precarity and criminalization where they spin around, orbiting but never penetrating the mainstream. Humanism is the device that determines who requires penal control, who gets put away, and who walks. At the same time, penal processes reinscribe humanist categories and exclusions. Once again it is worth emphasizing that the human is not a fixed category, but a discursive figure that may be redrawn to include or exclude particular beings (Salih 2007; Agamben 2004; Deckha 2010). Criminalized refugee youth are perceived as violent and irrational, behaving not like humans but like animals. This perception is eased by the rejection of their explanations for their behaviour and the assumption that civilized people simply do not behave in such ways.

I zeroed in on four mechanisms of disposability that both arise from and also reinforce animalization. First I looked at the expulsion of the criminalized refugee youth I spoke with from school and their rejection by the labour market, thereby creating the structural conditions for poverty, dependence on welfare, and vulnerability to homelessness, given that low levels of education are highly correlated with both low income and criminalization. Next, I focused on the “revolving door” of the criminal justice system, which is nearly impossible to exit; at the same time, marginalization multiplies as activities that enable survival in the circuits of exclusion are criminalized. It is fairly well accepted that neither general nor specific deterrence is effective in reducing delinquency (Alvi 2012; Doob & Cesaroni 2004; Maynard 2011; Schissel 2011; Shoemaker 2009); in this context, the effect of criminalizing young people’s behaviour is to entrench marginality, which in turn depends on and reproduces humanist categories by defining whose bodies and lives matter. Third, I examined the removal of PR status and creation of deportability that make possible the removal of refugee youth from the Canadian body politic; even if they are not physically removed, the threat of removal or loss of PR status maintain vulnerability and fear. Criminal and immigration law embody choices about who should be members of society by selecting individuals whose characteristics or actions make them worthy of inclusion in the national
community of citizen subjects, and rejecting all others (Barnes 2009; Chan & Chunn 2014; Jiwani 2006). Looking more deeply into who is rejected reveals the same categories of race, class, age, ability and gender that perform the removal of certain bodies from the human ontology. Fourth, I explored the overall disinvestment in programs for young people, which sends the message that the civilized White adult world considers some youth to be not worth nurturing or investing in. Meanwhile, the contraction of certain state functions and an economic philosophy of austerity and privatization means that it is “more efficient” to jail violent youth than rehabilitate them (Wacquant 2004; Garland 2001). The discourse of disposability is part of an epistemological and ontological exercise that creates and enforces a boundary between those defined as human and those who are excluded from the set of “bodies that matter.” Disposability performs the human/non-human figures by inhibiting recognition of the humanity of the unwanted “dangerous, young, unemployed, Black/Muslim male.”

Zones of dispossession and violence are mutually implicated. Violence may be perpetrated freely against bodies deemed disposable, and this often occurs away from public scrutiny. For example, use-of-force incidents are not systematically reviewed in federal institutions (OCI 2013). Violence is normalized and seen as necessary in a culture of hyper-punitiveness where those who are defined as expendable by virtue of their race, class, age, and so on are made available to violence (Razack 2008). With these ideas in mind, the final empirical chapter focused on violence, which is all-pervasive in the lives of the young people I spoke with. Following Deckha’s (2010) characterization of the subhuman as a violence producing category and Kochi’s (2009) discussion of species war, I argue that two parallel processes occur through the subjection of bodies to violence. First, those bodies are dehumanized; violence performs their animalization, marking them as subhuman entities that may not be reasoned with. At the same time, because irrational, out-of-control bodies require and deserve violence, the application of violence reinforces the human/nature boundary by treating subhuman beings analogically to how others in their category are treated.

Liminal humans may be routinely subjected to violence without guilt or fear of reprisal on the part of dominant groups. Consequently, the lives of the criminalized refugee youth who participated in this study are saturated with violence encountered at the hands of police and corrections staff, as well as family members and peers. Violence from police
officers includes frequent stops and searches which often include humiliation, use of restraints, weapons, threats, and assaults. Violence in prison is endemic; guards and prisoners assault each other and prisoners fight amongst themselves (OCI 2013; Throness 2014). The act of incarceration itself is a violent practice that involves the physical removal by force of a body from society, home, and family and ultimately produces more violence (Morin 2015). These violent interactions spill over into other areas of young people’s lives, including families and peer groups. Family violence may precede criminalization, but is exacerbated when a young person is in trouble with the law due to the shame brought on the family. As Daniel’s parents told him, “We didn’t bring you here to see you fuck up.” Violence among marginalized peers is also an integral part of “the life,” characterized by intergroup violence and retribution, intragroup competition, use of weapons, and assaults that provide fodder for media reporting. Adult violence against youth demonstrates to young people socially acceptable ways of behaving (against other animalized bodies, at least), thereby creating a cycle of violence that permeates almost every aspect of young people’s lives. Violence is brutalizing; it creates brutes/beasts and in that sense is performative of humanist identity categories and exclusions because it serves to delimit who may be subjected to violence and who deserves protection.

9.3 Contributions and Future Directions

This dissertation described some of the means by which humanism as a cultural apparatus and symbolic economy is institutionalized in Canadian public policy. My work makes several original contributions to the literatures on humanism, criminal justice, and immigration. A posthumanist analysis has not previously been applied to criminal justice or immigration policy and institutions in Canada, and I am unaware of studies that do so elsewhere. Focusing a posthumanist lens on penality and refugee settlement illuminates the mechanisms through which the Canadian state uses law and criminalization to produce and manage inequality, identity, and precarity against a humanist cultural backdrop; in short, it elucidates how the state expresses power through race, class, and gender ideologies that recuperate colonial distinctions between nature and culture. Species provides a new lens through which to understand how criminal justice and immigration objects and subjects and their relations are produced, embodied, fixed, and categorized within and by Canadian
institutions. Given that the Canadian legal system is a regime of humanist power, a posthumanist analysis clarifies the ways in which humanist conceptions of rationality, autonomy, self-control, and individualism have provided the foundations both for why people are differentially welcomed by Canadian immigration policies, as well as for the unequal treatment of “offenders” in the criminal justice system. Deconstructing the persistent linkage of crime with poor neighbourhoods and minorities and the creation of the criminal alien as scapegoat, reveals the political interests and power relations through which liberal penalty is constituted as a series of humanist performances that produce the human, subhuman, and non-human figures.

Additionally, the theoretical posthumanist literature benefits from a practical application of posthumanist ideas to human society. The arguments made here also extend conventional analyses of raced, classed, and gendered forms of dehumanization by examining the category of personhood rather than focusing on the instrumentality of such constructions. While a burgeoning and thoughtful literature on animal studies exists, it is important to show how humanism affects not only human/non-human relations but also intrahuman relations. It is vital to understand how humanism affects all of us in our various social locations, whatever our body shape, gender, ability, or socioeconomic class. My research offers a preliminary step in that direction which may be built on through future scholarship looking at state humanism in different institutional contexts and with different populations of humans and non-humans.

9.4 Final Reflections

This dissertation tells a particular story to explain the experiences of the youth I spoke with. Telling stories entails consequences, accountabilities, and obligations. The stories of criminalized refugee youth who are outliers and marginal to mainstream society are important because those at the political margins reveal the workings of power at the center (Mountz 2010); their stories are our stories. Emily Cameron (2015) argues that stories are relational ordering practices that order reality; thus, stories told about refugee youth in the criminal justice system order relations between immigrants and citizens, between innocence and guilt, between peace and violence, between youth and adults, between middle-class
decision makers and the low income objects of their policies, and also, I argue, between the human and the sub/non-human.

Throughout my analysis, I have borne in mind Maldonado-Torres’s (2007) assertion that a decolonial attitude requires making visible the mechanisms that distort perceptions of others through an analysis that includes the reflections of those whose existence is produced as insignificant. Until we come to grips with the ways that humanist dualisms underwrite violence, dispossession, and inequality it will not be possible to address injustice at a deep level. Theory precedes policy. Therefore in order to make profound policy change, the underlying theory needs to change. Since there is no position outside the field of political power, Butler (1990) proposes that the critical task lies in critiquing the discursive categories of identity that institutional structures naturalise and sustain. Importantly, while discourse limits what can be said, it is not immune to alteration; change is possible. Indeed, the vigilance with which the demarcations between humans and animals (and binaries which follow from that distinction, such as adult/child, able-bodied/disabled, middle-/working-class, White/racialized) are defended speaks to the vulnerability of an abstract notion of the human as a unified, autonomous, and superior subject. Agamben (2004) identifies anthropocentrism as the common link between democracy and totalitarianism: as long as democratic regimes remain invested in oiling and fueling the anthropological machine then they will create the conditions for the possibility of totalitarian tactics to be deployed against those defined as bare life. Because reforming or expanding humanism will leave us with more of the same, in order to address the issues this dissertation identifies we need a radically new politics.
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political ecology of boundary enforcement in the United States-Mexico borderlands.”


Appendices

Appendix A: Resettlement Assistance Program Benefits

Resettlement Assistance Program Benefits, 2014

<table>
<thead>
<tr>
<th>Family Size</th>
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<th>Food</th>
<th>Monthly Total</th>
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<td>$401.00</td>
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<td>$1,667.00</td>
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<tr>
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<td>$1,252.00</td>
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<tr>
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<td>$1,250.00</td>
<td>$2,661.00</td>
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ISSo/BC 2014
### Appendix B: BC Youth Custody/Community Admissions (Ethnicity)

#### British Columbia: Youth Custody Admissions by Ethnicity

<table>
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<th>Hispanic</th>
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<td>2012-2013</td>
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MCFD 2016 (FOI data)

#### British Columbia: Youth Community Admissions by Ethnicity

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<th>Hispanic</th>
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MCFD 2016 (FOI data)
### Appendix C: BC Youth Custody/Community Admissions (PR Status)

#### British Columbia: Youth Custody Admissions by Permanent Residence Status

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MCFD 2016 (FOI data)
### Appendix C, continued.

#### British Columbia: Youth Community Admissions by Permanent Residence Status

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<td>Total</td>
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<td>23</td>
<td>32</td>
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<td>237</td>
</tr>
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<td></td>
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</table>

MCFD 2016 (FOI data)
Appendix D: Sample Probation Order (Youth)

(1) In an order for a conditional discharge under section 8 (2) (a) or a probation order under section 8 (2) (d), the court (a) must require the young person to
   (i) keep the peace and be of good behavior, and
   (ii) appear before the court when required by the court to do so, and
   (b) may require the young person to do one or more of the following that the court considers appropriate in the circumstances:
   (i) report to and be under the supervision of a youth probation officer or other person designated by the court;
   (ii) notify the court, the provincial director or a youth probation officer assigned to the young person’s case of a change in the young person’s address or a change in the young person’s place of employment, education or training;
   (iii) remain within British Columbia;
   (iv) make reasonable efforts to obtain and maintain suitable employment;
   (v) attend a school or other place of education, training or recreation with the prior consent of the officials of the school or place;
   (vi) reside with a parent, or with an adult whom the court considers appropriate, who is willing to provide for the care and maintenance of the young person;
   (vii) reside in a place the provincial director specifies;
   (viii) make restitution to an aggrieved or injured person for the actual loss or damage caused by the commission of the offence;
   (ix) comply with any other conditions set out in the order that the court considers appropriate, including conditions for securing the young person’s good conduct and for preventing the young person from repeating the offence or committing other offences.

(2) If a young person is required, by an order for a conditional discharge or a probation order, to appear before the court, the court must give a notice to appear, or require that a notice of appearance be given, to the young person.

(3) If a young person does not appear at the time and place named in a notice under subsection (2), the court may issue a warrant to compel the young person’s appearance.
Appendix E: Sample Probation Order (Adult)

Mandatory conditions in probation order

89.1 The justice must include, as conditions in a probation order, that the defendant do all of the following:
(a) keep the peace and be of good behaviour;
(b) appear before the court as and when required to do so by a justice;
(c) notify the justice or a person designated by the justice
   (i) in advance of any change in the defendant’s name or address, and
   (ii) promptly of any change in the defendant’s employment or occupation.

Optional conditions in probation order

89.2 The justice may include, as additional conditions in a probation order, that the defendant must comply with one or more of the following, as specified in the order:
(a) the defendant must report to a probation officer or other person designated by the justice
   (i) within 2 business days after the probation order is made, unless a longer period is specified by the justice, and
   (ii) after reporting under subparagraph (i), at the times and in the manner directed by the probation officer or designated person;
(b) the defendant must be under the supervision of the probation officer or designated person referred to in paragraph (a);
(c) the defendant must not possess or consume
   (i) alcohol or other intoxicating substances, or
   (ii) a controlled substance, as defined in the Controlled Drugs and Substances Act (Canada), except in accordance with a medical prescription;
(d) the defendant must not own, possess or carry a weapon;
(e) the defendant must provide for the support or care of a spouse or other dependants;
(f) the defendant must perform community service;
(g) if the defendant agrees and is accepted into the program, the defendant must actively participate in a treatment or other program approved by the government;
(h) the defendant must make restitution or reparation for any loss or damage suffered as a result of the commission of the offence;
(i) the defendant must not make contact with a person or may have only limited contact with a person;
(j) the defendant must not be present at a place or premises;
(k) the defendant must provide a written apology;
(l) the defendant must comply with any other reasonable conditions the justice considers appropriate to
   (i) protect the public,
   (ii) prevent similar unlawful conduct by the defendant, or
   (iii) contribute to the rehabilitation of the defendant.
Appendix F: Interview Schedule – Refugee Youth

*Introduce self and research project.*

*Obtain informed consent.*

1. Before we start, do you have any questions about me or the research project?

2. Where do you come from? How long have you been in Metro Vancouver? How old are you?

3. How did you come to Canada – can you describe your migration process? Did you arrive with your family members, which ones?

4. Please describe your housing and employment situation. What is your level of education?

5. Considering your own experiences, what were the main challenges you faced in settling in Vancouver?

6. How did you deal with those challenges? Have you received assistance? If so, what kind of assistance did you receive, from whom, and what did you find most/least helpful?

7. When did you first get involved in the criminal justice system? What was going on for you at that time?

8. How has a criminal record affected your life? Have you received assistance? If so, what kind of assistance did you receive, from whom, and what did you find most/least helpful?

9. Do you feel you have enough information about how to deal with the challenges you have faced and your rights as a PR or citizen? If so, how did you acquire that information? If not, what would be the best way for that type of information to be provided? Could you give any examples?

10. Knowing what you know now, what advice would you give to other newcomers?

11. What suggestions would you give to the organizations you already know to improve the services they provide to you and your family? Do you have any suggestions for POs, law enforcement, or social workers? What changes in government policy would you recommend to help other newcomers in similar positions?

12. How would you like to see this research used?

13. Is there something you’d like to talk about that I haven’t asked you?
Appendix G: Interview Schedule – Professional Stakeholders

*Introduce self and research project.*

*Obtain informed consent.*

1. Before we start, do you have any questions about me or the research project?

2. Which organisation do you work for? What is your position at.... and how long have you worked here? How does this organization work within the larger context of service-providers?

3. What services do you typically offer to youth/young adults before, during, and after involvement in the criminal justice system? How do youth/young adults get to know about your programs? Does the refugee community use these services?

4. What other programs are available to refugee youth/young adults in Vancouver? Do you work with these? In what capacity?

5. What is the demographic profile of the refugee youth/young adults you have served who are involved in the criminal justice system? How do religion, family income, refugee status, age, gender, country of origin, language, and mental health factor in?

6. How does a criminal record affect refugee youth and families? What strategies do refugees use to deal with the resulting challenges? Can you give examples?

7. What are the main needs of such youth? Do available services meet those needs? Please give examples of successful need-service matching.

8. Describe any gaps in service/program provision that you have identified through your work. Could you speak about some of the barriers preventing access to services? Are there specific challenges for refugees? How do you help refugee youth overcome the barriers to participation you have identified? Do you have a sense of how these needs change over time?

9. How could your organisation improve its provision of services to refugee youth in Metro Vancouver?

10. Are there any policy changes from governments that you would recommend?

11. Do you have any future projects or programs you would like us to know about?

12. What would you like to learn from the refugee youth and their family members who will take part in the interviews which will be held in the second phase of this project?

13. How would you like to see this research used?

14. Is there something you’d like to talk about that I haven’t asked you?