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Abstract

The "default prevention and management policy" (DPMP) requires First Nations to accept "intervention" by external accountants into their financial affairs to avert or manage financial crisis. According to research findings presented in this paper, though, when First Nations are under DPMP, their housing stock deteriorates at a rate 30 percent higher than other Bands. Eighty percent of First Nations under DPMP have also been under one or more boil water advisory. Out of these advisories, DPMP intervention came first *eighty percent* of the time. This paper puts infrastructure to work as *method* to explore how intimate forms of infrastructure and "infrastructure denial," such as housing and water systems on reserves, re-connect socioeconomic policy frameworks with theories of settler colonial dispossession.

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Introduction

A critical body of geographic literature has focused in recent years on the importance of national infrastructure to the production of colonial space in Canada and the United States (Chua, 2016; Cowen, 2020, 2018; Curley, 2021; Harris, 2004; Karuka, 2019; Spice, 2018; Stanley, 2019). Railroads, telegraph lines, hydroelectric dams, nuclear power stations, oil and gas installations, pipelines, and other transportation and energy corridors have all radically reshaped Indigenous territorial authority over land and resources. The role of finance also features prominently in this research and analysis, since national infrastructure requires substantial monetary investment, while also providing a crucial spatial fix for surplus capital (Gilmore, 2007; Harvey, 2001; Hudson, 2017; Toews, 2018). Together, the dynamics of state colonization policies, national infrastructure imperatives, and financial architecture have provided an important lens through which to see how capital is put into motion in ways that perpetuate and maintain the violence of colonialism.

However, the focus within geographic scholarship on national infrastructure has far outweighed the study of more "intimate" forms of infrastructure that can also shed light on the production of colonial space. Navajo geographer Andrew Curley writes, "To understand how colonialism works across Indigenous lands, we need to focus on the physical, legal, and political factors that are involved in the building and the expansion of national infrastructures; infrastructures that arrive in some places while denied in others" (2021, 388). As a corollary to his intervention, in this article, I put infrastructure to work as *method* (Cowen, 2020) to explore beyond the context of national infrastructure to more intimate forms of infrastructure and "infrastructure denial," such as the issues of housing and water systems on reserves.

By using the term "intimate," I am referencing the work of Indigenous feminists who have maintained this relationship between intimate geographies of life – such as child welfare, gendered labour, and gender-based violence – to nation building and land reclamation (Daigle, 2018; Hunt, 2016; Sinclair, 2016; Whetung, 2019; Women's Earth Alliance, 2016). De Leeuw and Hunt (2018, 2) have written about how non-Indigenous scholarship (my own included) can often reflect an "uncoupled or disconnected" approach to decolonization practices that can decentre Indigenous experience and everyday local struggle, as well. Though the methodology for this article does not focus specifically on gender, it foregrounds the infrastructure of homes on "Indian reserves"[1] in Canada, which in turn deeply impact family life and work. For example, lack of housing is used to justify higher rates of child apprehension in First Nation communities than for other women (OHRC, 2008).

For most communities, federal transfer payments are the main source of reserve income[2]; therefore, funding formulas can determine the statistical outcomes of Indigenous lives from cradle to grave. This paper aims to draw attention to finance, colonization, and infrastructure on reserves by focusing on a policy designed ostensibly to remediate First Nation debt, called the "default prevention and management policy" (DPMP). The policy requires First Nations to accept various levels of "intervention" by external accountants into their financial affairs to avert or manage financial crisis. Hundreds of First Nations have been under the policy over the years, as far back as the early 2000s, representing 209 – or over one-third – of all First Nation Bands in Canada over time.[3] Many of these same Bands have struggled with infrastructure deficits that either landed them in intervention or that worsened under intervention.

According to new research, done in cooperation with a network of journalists, when First Nations are under DPMP their housing stock deteriorates at a rate *thirty percent higher* than other Bands. In terms of water, *eighty percent* of First Nations under DPMP have been under one more boil water advisory.[4] Out of these advisories, DPMP intervention came first *eighty percent* of the time. This paper asks: why is a fiscal policy that is supposedly designed to remediate debt and help restore financial health to First Nation communities creating and contributing to severe infrastructure debt? What new insights into the relationships between infrastructure and debt emerge when we bring to bear an understanding of colonialism?

<u>Methods of "Making Colonialism"</u>

What does it mean to study a policy "out in the world"? In Timothy Mitchell's 2009 essay, "How Neoliberalism Makes Its World," he traces the rise of neoliberalism and the ways it made its world through the "distribution of expert knowledge to ordinary members of the population" and through the broad dissemination of think tanks and their "second-hand" dealerships of ideas (386-7). But neoliberalism needed *proof of concept.* A land titling program for the poor in Peru run by the Institute for Liberty and Democracy served this purpose, showing in studies startling and positive correlations between private property rights and poverty alleviation.

What Mitchell uncovers, however, is that the actors involved in the land titling study and those interpreting its results shaped the conclusions reached in the experiment. Mitchell resolves that there are no natural experiments or "wild" places to test economic ideas. The world is already "formatted" to "make economics" through political and academic commitments, and through prior experiments that produce "facts" and arguments "that arrange the sociotechnical world in a way that makes experimentation possible" (409). Likewise, I argue here, Indigenous Services Canada (ISC), (the department currently responsible for managing reserve life), defines First Nation "debt" as an external object that can be subject to risk assessment and intervention, even though the Department *itself* is the source of the debt and not an *exterior* object of study. DPMP, in other words, is deployed by ISC to "resolve" a problem largely of its own making.

This paper draws on over ten years of work on the DPMP through access to information and privacy (ATIP) requests, community-based research and interviews, legal research, policy analysis, and investigative reporting (Pasternak 2017a, 2017b, 2017c, 2015a, 2015b, 2014a, 2014b). This long-term research project was reinvigorated in 2019 when journalist Declan Keogh, working with the Institute for Investigative Journalism (IIJ), based at Concordia University in Montreal, contacted me to discuss his preliminary research findings of high correlations between boil water advisories on reserves and DPMP. This research was done as part of a national study led by IIJ director Patti Sontag on water infrastructure at First Nation reserves. This IIJ dataset prompted a new phase of collaborative research to expand my DPMP studies.[5]

Over the spring and summer of 2021, with research assistance from Ryan Moore, we set up a mixed-method study for pursuing further investigation and corroboration of the data. We began by compiling and indexing my ATIP requests with IIJ's ATIP requests, as well as communicating with ISC to provide us with a complete list of all Bands under DPMP. We then applied the same strategy to water-DPMP correlations, and Ryan Moore compiled lists of Bands under boil water advisories (BWAs) through publicly available information and ATIPs, while also gathering data on water infrastructure issues and inspections on reserves. To study the correlations and impacts of DPMP and housing, investigative journalists, and researchers within our network – Patti Sontag, Emma Wilke, and Robert Houle – correlated the DPMP list from the years 2011-2016 with Statistics Canada housing data[6] to determine First Nation housing conditions in relation to DPMP. The results of this housing research were published by the Yellowhead Institute as part of a major report on First Nations and Crown funding relations (Pasternak, 2021; Pasternak and Metallic, 2021).

But while we had compelling evidence of correlation, understanding causation required First Nation analysis to identify the relationships between the policy and infrastructure crises on reserve. The next stage of research involved reaching out to First Nation communities who appeared on our correlated lists – Bands that had been under both DPMP and BWAs, or Bands under DPMP with deteriorated housing, or Bands that had been under DPMP that showed correlations with both housing and water crises – to find out *how* and *why* DPMP affected community infrastructure. Moore and I reached out to twenty-nine First Nations and interviewed people from seven communities, and in two cases we interviewed two different people from the same community, which totalled nine in-depth semi-structured interviews in total. I also spoke to a First Nation specialist on water systems and an Indigenous employee at the Canadian Mortgage and Housing Corporation (CMHC) for background.

We were also in possession of a valuable ATIP disclosure from ISC that listed the names of default management consultants from 2014-2021 for each First Nation, as well as the regions where they worked. I reached out to individuals who worked as DPMP accountants to interview for our research. In total, I contacted twelve managers and was able to conduct interviews with the five managers who responded. Managers were selected initially based on the frequency with which they appeared in the data, therefore reflecting the scope of their experience. I asked them questions about the policy, such as its strengths and weaknesses in terms of development, implementation, capacity building, and impacts on infrastructure.

Understanding how colonialism makes its world also required digging into the "sociotechnical world" that produces the knowledge of First Nation debt. The first part of this essay takes a closer look at the DPMP (and its antecedent policies) and how it regulates First Nation "debt retirement." Next, I examine which forms of knowledge ISC indexes to define debt, examining the funding formulas that underpin the fiscal structure of transfer payments and programs. Following this analysis, I take a closer look at the correlations between housing and water infrastructure deterioration under DPMP, drawing on historical policy analysis, interviews with impacted First Nation communities, and conversations with water operators, housing experts, and DPMP advisors to better understand these links. Finally, I revisit Patrick Wolfe's adage that the structure of colonialism is a "logic of elimination" (2006, 388) to re-connect socioeconomic policy frameworks with theories of settler colonial dispossession.

<u>Easy Come, Hard to Go: The Default Policy</u>

DPMP is an escalating, three-phase intervention that empowers the Minister of Indigenous Services (ISC) to place a First Nation (or a cluster of First Nations, represented by a Tribal Council) into a kind of receivership or oversight triage when they are found to be in financial default. The three phases of intervention are recipient management, when the First Nation must produce a remedial plan; co-management (sometimes referred to as a "recipient-appointed advisor"), when the First Nation must work with a co-manager to develop and implement a remedial plan; and third party management, when the department appoints a manager to take over the First Nation's financial affairs.

The first challenge to doing research on the default policy is that it draws from several internal financial management policies that have evolved over time. The ISC website states that DPMP dates to 2011, however accounts of third party management go back much further, to at least 2001 (ISC, 2013) and it is constantly being rewritten.[7] The continuous reforms to the policy are linked to its controversial and problematic aspects that persist to this day. For example, the early third party management policy came under fire by the Attorney General of Canada (AGC) (prompting the 2006 reforms) when the AGC raised concerns about its effectiveness, implementation, and lack of government oversight (AGC, 2006). These criticisms persisted, leading to further reforms and new iterations, including the most recent DPMP (EPRMC, 2011).

The policy itself has no basis in law. In the proceedings of a case involving the *Intervention Policy* (2003), a panel of federal judges stated, that, "The Policy is not, of course, binding in and by itself" (*Choken v. Lake St. Martin Indian Band*, 2004). However, the judges found that since the DPMP is "reflected to a large extent" within the Transfer Payment Agreement and Contribution Funding Agreements – the funding contracts between First Nations and the department of Indian Affairs – therefore, "for most *practical* purposes" it is "binding on the parties to the agreements" (*Choken* at para 16, *emphasis added*).[8] It is important to note here, though, as Mi'kmaq legal scholar Naiomi Metallic emphasizes (2018a), there is no legislation that stipulates this contract funding be tied to needs-based assessment.[9] Therefore, the legal basis for the policy – the contribution agreement – is also an underlying cause for the need for it.

Decades of under-funding and accumulated need, compounding historical and ongoing colonial policies of land theft, have made financial defaults common in First Nation communities. One of the key triggers for DPMP is violating the terms of the funding contract, which include borrowing from one designated budget line to cover another (INAN, 2017). First Nation leadership and Band staff are put in a difficult position by this trigger: they risk endangering essential services like water and housing if they cannot allocate funding to infrastructure. But if they borrow these monies from more flexible budgets like education and Band Support funds, this puts them in peril of triggering DPMP.

In 2017, the House of Commons Committee on Indigenous and Northern Affairs (INAN) responded to First Nations' "longstanding grievance" against default management and agreed to study the policy, hearing testimony from 32 witnesses, in addition to written submissions. Norm Odjick, representing AFN Quebec-Labrador, testified to Parliament about unforeseen costs – like diesel spills or wildfires, funeral costs – that can trigger DPMP, since the transfer payment system requires funds to be directed to specific areas (INAN, 2017).[10]

But by far the greater problem, reiterated frequently at the hearings, was the inadequate funding that led to defaults in the first place. Arlen Dumas, who was at the time the tribal council chief of Swampy Cree Tribal Council, described unchanged funding levels in his community since 1982, despite the population growth from 1,000 to 3,500 members over that same time (INAN, 2017. See also: Elias et al, 2015). Supporting these remarks, Chief Alex McDougall of Wasagamack

First Nation stated that communities were already starting from a disadvantage, "where there is chronic underfunding in all areas of services, capital, programs… you name it. We are starting basically with our hands tied behind our backs and trying to manage financial resources that are not nearly sufficient to meet the needs of the community" (2017, 10). Chief Casey Ratt of Barriere Lake also confirmed these experiences, adding that this impoverishment is systemic and stemmed from the politics of domination, rather than the Band's financial decisions: "Our lands and resources have been dispossessed by Quebec and Canada. Our people live in poverty. We have a high unemployment rate because we have been excluded from the development or our traditional lands" (2017, 2). According to Ratt, the failure of governments to deal honourably with First Nation was the underlying cause of debt, not financial mismanagement.

Once First Nations are under the policy, retiring debt then becomes a Herculean task, because the annual contribution funds are insufficient. Therefore, generating surplus to repay debts requires a terrible kind of discipline. Jimmy described (phone, Aug. 10, 2021) how debt retirement was once much more flexible: "Now, it's much more restrictive." Since governance is unfunded on reserve – it is allocated out of a general Band Support fund, at the First Nation's discretion – it is often the first target of DPMPs, who may place the entire Chief and Council on welfare (D'Amato, phone, Aug. 4, 2021). Manager Cochrane called this cut to governance "punitive" and demoralizing (Cochrane, phone, Aug. 5, 2021).

This fiscal discipline can also be downright dangerous. As Jimmy explains (phone, Aug. 10, 2021), "Band-based capital is the ISC funding that is allocated to support the operations and maintenance of capital, including buildings, fire protection, emergency repairs, insurance, etc." ISC can permit this borrowing to repay debt, but its impacts can be dire. Jimmy witnessed a First Nation under default management advised to retire their debts by drawing off fifty percent of this band-based capital fund: "So… what's it supposed to cover? It's supposed to cover … operations, maintenance and repair to community buildings and houses, and more. From a risk management perspective, it's supposed to cover insurance. Not anymore." In other words, the debt policy can create invisible, but increased long-term forms of risk and deficit in the form of infrastructure disinvestment.

The rules for debt retirement are contained in the *Financial Management Manual* and they are also extremely confusing. Surplus accrued through spending cuts cannot be used immediately to pay down debts.[11] In interviews with DPMP Managers, I asked them to make sense of this apparent contradiction. In response, IMG Manager Lorne Cochrane replied (phone, Aug. 5, 2021): "There's no incentive, or directive. All surplus goes back to INAC [Indian and Northern Affaire Canada[12]], and into consolidated revenue, and nobody benefits but Canada." Another Manager was never given *any* direction at all by the Department on how to retire debt: "There are rules but … they're kind of unwritten rules" (Wallace, phone, Sept. 3, 2021).

Lastly, if a Band has access to Own Source Revenue (OSR), it appears to increase their ability to retire debt. Though this subject requires its own study, OSR is income derived from for-profit ventures or revenue sharing partnerships with industry and government. OSR can support debt retirement, but it can also keep Bands *out of debt*, as Norma Girard, band councillor of Northwest Angle, (NWA) explained. For example, Casino Rama funding (distributed to all Ontario First Nations by Rama First Nation) was how NWA covered a shortfall in infrastructure and education funding, saving them from TPM imposition. It is important to note here, though, that only 19 percent of Bands have access to revenue sources on reserve, with noticeable differences in access to OSR according to the size of the First Nation and proximity to revenue activities (FNFMB, 2020).

The DPMP policy impacts smaller, poorer communities the hardest, causing the deepest and more irreversible forms of damage, as we will see. "Poorer" communities also tend to be Bands that have been targeted the hardest through displacement, removal from economic livelihood, or even those peoples that are the most oppositional to the state. The somewhat arbitrary nature of its imposition can belie the deeply coercive nature of debt policy that can be deployed against any Band. One DPMP witnessed TPM used as a coercive tool to force a First Nation to sign their contribution agreement without first reading it. As she tells it, a new Chief and Council were attending an orientation by ISC when the Funding Service Officer (FSO) officer presented their contribution agreement. "You need to sign it today," they were told. The Chief and Council responded that they would like to take some time to review it, to undertake due diligence. The FSO responded, "That would be perfectly fine. But you won't have any money April 1" (Jimmy, phone, Aug. 10, 2021). The FSO explained that the Band instead would have to rely for months on independent revenue, or else be assigned a third party manager. The Band signed under duress.

Other First Nations have shared similar stories of coercion. For example, Barriere Lake were repeatedly threatened with TPM for fighting to protect their customary government system (Pasternak, 2017), and stories of political pressure abound, with devastating impacts, like high unemployment, suicide epidemics, and devastated infrastructure, once TPM is imposed (Pasternak, 2017a).

<u>Infrastructure Funding</u>

When First Nation leaders testified at Parliament to the decades of wealth appropriation from their lands and to the systemic underfunding that has infilled this loss, they were scratching the surface of how Byzantine the funding and accounting systems work to manage this poverty. As the final INAN report on DPMP observed: "First Nations are subject to significant financial reporting requirements, and as such, require skills to effectively manage multiple funding sources that are well beyond the skills necessary in other sectors" (INAN, 5. See also AGC, 2002; Evans, 2018).

This complexity includes infrastructure funding, most of which is funnelled to First Nations through contribution funding agreements – the core funding contracts of various kinds signed between First Nations and the Department (Metallic, 2018b). This baseline funding is augmented through a range of programs (like the proposal-based First Nation Infrastructure Fund), but each contract, grant, and program rely on a combination of risk assessment, political calculation, and funding formulation that determine the budget expenses allowable for each line of costs.[13] The funding formulas for infrastructure provide important clues for how colonialism makes its world.

The policy of default management defines debt as a year-over-year sum, but infrastructure has a multi-year life cycle and maintenance costs. As noted, when First Nations make up the shortfall in infrastructure funding, they end up in "deficit spending" to ensure people have safe shelter through the winter and access to clean water (Thompson, 2007). Operations and Maintenance (O&M) funding is of central importance here because it funds the costs of operating and maintaining community infrastructure. This proposal-based funding program was described by accountants and water operators as far more obscure, discretionary, and negotiation-based than is the case for core infrastructure funding (D'Amato, 2021; Haslik, 2021; Jimmy, 2021), presenting significant barriers to less resourced communities. O&M funding covers from 20 to 100 percent of actual costs (ONFNTS, 2018), so without other sources of revenue, First Nations must find the money elsewhere.[14] This appears to be a key source of indebtedness on reserve.

When Ontario First Nations Technical Services (ONFNTS) undertook a comprehensive evaluation of the O&M budget in First Nation transfer agreements a few years ago, they identified two major problems with the funding: a lack of increase to the budget despite increases to the costs of operations and maintenance over time, and a funding formula methodology based on "flawed and dated calculations which do not compare to other data sources employed for off-reserve O&M calculations" (2018, 4). So, what happens when First Nations cannot supplement the O&M budget? ONFNTS conclude that, "the O&M simply does not occur" (2018, 4). The longer repairs lag, the greater the damage incurred to the infrastructure, and the more costly will be the repairs.

The nuts and bolts of infrastructure funding formulas are found in the Capital Facilities and Maintenance (CFM) Program. The Program funds infrastructure through three separate envelopes of funding: Major Capital, Minor Capital, and Operations and Maintenance (O&M).[15] Overall, 53 percent of First Nation CFM funding is formula-based and is distributed as core funding to First Nations. The other 47 percent is proposal-based (INAC, 2015). First Nations are expected to develop 5-year capital plans called First Nations Infrastructure and Investment Plans (FNIIP) that identify major and minor infrastructure needs, and outline First Nation priorities for growth, development, and upgrades (INAC, 2015). As Norma Girard, band councillor of Northwest Angle #33 First Nation explained: "That is essentially your infrastructure bible to be able to get the funding for those types of projects. If it's not identified in your Capital Planning study, there's very little chance that [ISC] will fund that project" (phone, Aug. 6, 2021). For Minor and Major Capital infrastructure, proposal-based funding is the competition First Nations must enter to supplement transfer payments.

But these funding formulas for capital projects can run into the same problems as O&M funding formulas. DPMP accountant Lorne Cochrane of IMG (phone, Aug. 5, 2021) critiqued the "remoteness" index that counts the number of kilometers away a reserve is from the nearest major hub to set price indexes for costs of living. He pointed out, though, that kilometers on ice roads are not the same as kilometers on the 401, Ontario's major highway system. For example, he recounted that in 1997, there was a severe weather change in northern Manitoba. Within a week, the ice road disappeared, followed by a massive flood. Local communities had to fly in all supplies and essential services to places dependent on winter roads, which cost around $14 million.[16]

The problems with the funding formulas are not merely miscalculations. The Department has been aware of problems with infrastructure funding to First Nations for decades. Issues raised in Departmental evaluations fifteen years ago remain unresolved. In 2007, an INAC report found that the INAC Cost Reference Manuel – the key cost index – provides no "bridge" between updates and original methods, despite providing likely inaccurate formulas and producing figures that do not reflect "regional market conditions" (8). An internal INAC audit noted these same discrepancies in 2009, citing First Nation infrastructure formulas' basis "on dated reference levels" (18). Though there have been updates to overall funding figures, based on an escalator applied to some programs[17], this change has not addressed the core problem of inaccurate funding formulas (Jimmy, phone, Aug. 10, 2021).

<u>The Balance of Water</u>

Walter Oskineegish is the Band Manager at Nibinamik First Nation (Summer Beaver), located around 500 kilometers north of Thunder Bay on the north shore of Lake Superior. The Band was placed under default management in 1997 after their storage tank erupted when a trucker was transferring fuel. Around 200,000 litres of diesel fuel spilled into the ground and the Band did not have the money for the clean-up. Oskineegish (phone, Aug. 6, 2021) says they were closely monitored after that spill by default managers. Matters became worse when a massive wildfire burned down most of the standing timber around the reserve. They once were builders, with a horse and a mill on reserve, but Nibinamik lost those in the fire, too. Under the default policy they could not obtain loan guarantees for housing, and they could not replace the mill, so no housing got built for years, worsening the infrastructure crisis.

A water treatment plant was also built in Nibinamik in the late 1990s. Yet, the community has been in and out of boil water advisories since 2013. According to Oskineegish (phone, Aug. 6, 2021), there were internal problems with plant management, but also an underlying problem that they could not resolve: "Things cost, when we ask for something, it costs something, and we don't have money for it." Compounding this need for repairs is the collapsing energy infrastructure necessary to run the treatment plant. After nearly fifteen years, the generator is breaking down, and though the community is accessing maintenance funds for repair, the machinery needs to be replaced. The tightly intertwined infrastructure needs and denials on reserve quickly translate to compounding incapacity and rapid household deterioration. The "financial debt" that ensues is then "remediated" by even greater fiscal discipline.

Deon Hassler, circuit rider trainer for File Hills Qu'Appelle Tribal Council, services eleven First Nation communities. Circuit riders operate First Nation drinking water and wastewater systems. When asked what he thought were the correlations between DPMP and BWAs, he replied without hesitation: "The biggest reason we have boil water advisories is because we don't pay water operators enough money" (phone, Aug. 19, 2021). He continued: "It starts with O&M funding. Not enough is covered by that budget so Bands have to top it up. It's tough to do because they don't have extra money to spend." Sometimes, the funds are even available from ISC, he says, but Bands cannot access them because the process is so opaque. The water "crisis," he believes, can be a predictable outcome of debt.

Just as alarming, though, is that this debt can trigger an even deeper water crisis on reserves, because of the federal debt management policy. There is a 250 percent increase in likelihood that communities will be under a boil water advisory (BWA) if they are under DPMP. According to research undertaken by the network described above, 32.9 percent of Bands currently under DPMP are under BWAs compared to 9.4 percent of Bands under BWAs who are not. In terms of which came first – the DPMP or the BWA – we found that, based on the data available, First Nations were 80 percent likelier to see the water system fail if they were under the default management policy, and be subsequently placed under a BWA. The issues of housing, water and debt also appear to overlap. The average number of people per household on reserves without DPMP or BWA is 2.21, whereas in communities under BWA and DPMP, the average people per household is 3.83, which is a 73.3 percent increase (for communities only under BWA the average is 3.32).

The history of poor water policy on reserves is well documented (Chapeskie, 1994; AGC, 2005), and as the recent class action lawsuit against Canada by First Nations under long-term BWA states: "Canada knew, or should have known, that First Nations lacked the resources to maintain, let alone remedy, their deficient water systems. Canada further undermined First Nations by consistently underfunding the maintenance and operation of water systems on First Nation Lands, despite the fact that the First Nations were unable to meet the shortfall" (*Tataskweyak*, 2019). Without adequate funds, Band cannot maintain infrastructure, and once in debt, the debt financing and retirement policies create greater strain on infrastructure maintenance.

The impacts of this state failure to adequately fund water on people's health and well-being, as well as mental health, are significant. In Pikangikum First Nation, for example, a northern Ontario Ojibwe community of 2,300, ninety-five percent of homes lack running water and indoor plumbing, creating a wave of related sicknesses (Boyd, 2011). A report in 2006 found a "prevalence of gastrointestinal infections, skin infections, lice infestations, urinary tract infections and eye/ear infections" that "could be attributed to the lack of an adequate and safe water supply system" (Northern Health Unit, 9). In the midst of this water crisis, TPM was imposed on Pikangikum in 2000.

When challenged in Superior Court, this imposition was deemed "extraordinary, both politically and procedurally" (*Pikangikum First Nation v. Nault* 2012, para. 58, cited in Chambers, 2017, p. 296). But this imposition was especially egregious, given the extraordinary chain of events that led to the imposition of TPM. These events include a power failure at the treatment plant – which relied on a single diesel generator because of insufficient funding for electrification – that led to contamination, and the declaration of a state of emergency (Chambers, 2017). TPM teetered on top of a house of cards, punishing a community struggling to survive severe infrastructure failure (see also: McCullough et al, 2012).

In Attawapiskat, Charles Hookimaw was a child when he stood at the shore of the Attawapiskat River in the muskeg of Northern Ontario, Canada, and saw massive, strange blocks of concrete floating towards the reserve by barge. It was the 1990s and sewer pipes were being brought in for a water treatment facility. "I remember they started on the other side of town, building the water pipes and everything, the infrastructure, the sewer… I remember when we got our first running water in the community, and I remember when we got our first running water in my home, too, that was something" (phone, Hookimaw, 2021). Water and sewer lines connected everyone on the Attawapiskat First Nation reserve to a plant for the first time.[18] But by 2000, water samples from community tap water showed contamination with coliform and E. coli bacteria (Abbate, 2000). The Mushkegowuk Cree community was put under a boil water advisory and could no longer use water from their taps. They drew water from the river and melted ice in the winter for drinking and washing. Twenty-one years later, they rely on two reverse-osmosis mobile water dispensaries for twenty-five hundred people to refill gallon jugs they must load and lug home.

Attawapiskat has had 14 short-term boil-water advisories (BWAs) between 2016-2021, yet they still cannot access funding to fix the treatment plant. In July 2019, a state of emergency was called regarding the water quality. Residents were warned not to cook with tap water, or bathe in it, or even inhale its vapours. They had still never drunk from the taps (Sutherland, 2020). Behind the state of emergency, though, was a deeper problem. "It's not the water," Hookimaw explained. "It's about the adequate funding that we need [for] resources and capacity, that's why we're in this mess. It is not the First Nations that created this mess, it's the system that [we're] under, under the

INAC… The next crisis I see coming is the whole infrastructure, the water infrastructure, we're at the tipping point here" (2021). The funding problem *is* the water crisis.

Hookimaw blamed the *Indian Act*, 1985, as the source of the funding crisis since it limits the jurisdiction of the First Nation to control resources in their territory. It legislates death through the funding process. He described losing 4 community members in one week due to inadequate health services. "Even if we ask for funding, we have to go through all this red tape and extra paperwork... It takes a lot of time and at the end of the day, the funder doesn't approve those funding [requests] (phone, Hookimaw, 2021). Attawapiskat has been in and out of debt for at least a decade, while simultaneously experiencing extreme water *and* housing crises. In 2013, the community declared a national emergency due to a shortage of housing that forced community members to live in unheated sheds and tents in -15 to -20-degree Celsius weather (Stastna, 2011). Instead of getting support from the federal government, Attawapiskat was placed under TPM – a decision revoked by a judicial review, when the judge concluded that the Minister used the third party management policy without consideration for "more reasonable, more responsive or less invasive remedies available" (Fitzpatrick, 2012).

Drinking water and wastewater systems on reserves require far greater investment than current funding dollars available. According to a water report almost a decade ago costs exceeded $1 billion for necessary construction costs (AANDC, 2011). For maintenance, capacity development, and emergency response funds for existing infrastructure, First Nations faced a shortfall of $79.8 million (AANDC, 2011). Yet the budget for 2015 only allocated $329.7 million that year (SSCAP, 2015). Recent announcements in the 2022 federal budget include $1.04 billion through the Indigenous Community Infrastructure Fund and $247 million to ISC over 2 years to support water and wastewater systems on reserve (GOC, 2022). But this funding, at best, represent the needs of First Nation from over a decade ago, not the needs today.

Housing on Reserve as Crisis By Design

Unlike other forms of poverty in society, the system of debt on reserves is almost an entirely closed system, a kind of *economic terrarium* of state policy, as seen in the case of housing. In 2021, Katie Nottaway was trying to secure housing on Rapid Lake, the reserve of the Barriere Lake Algonquins in Quebec's boreal region, a couple of hours north of Ottawa. Her fourth child was born with lung and heart problems, so she was forced to move to Montreal to receive medical care for the baby. He was hospitalized for 8 months, but they stayed in the city for much longer because of a lack of available housing at Rapid Lake. Though she could secure some funds for a small mobile home from a medical fund for First Nations, none were available. Her only option was to live with her father, whose house contains mould that is dangerous for her recovering baby (Nottaway, Aug.30, 2021).

The shortage of housing at Rapid Lake is a collective problem faced by the community, and by First Nations across the country. Ninety-nine percent of loans to First Nations for housing are secured through the Canadian Mortgage and Housing Corporation (CMHC): specifically, through the "Section 95" On-Reserve Non-Profit Housing Program. Under Section 95, First Nations may access loans through the Direct Lending program to finance the construction, purchase, or rehabilitation of homes; then, to cover the costs of the rental (aka mortgage) they can also apply for a housing subsidy from CHMC under Section 95. The "crisis" of housing on reserves is a funding crisis; one of the major findings of Senate Standing Committee on Aboriginal Peoples 2015 hearings on housing on reserves is that the federal funding available to First Nations to build housing covers only a fraction of actual need. For example, in 2013, only 546 units of housing were committed by CMHC to being built, despite a housing shortage estimated to be between 35,000 to 85,000 units (2015, 28).

Where DPMP comes into the picture is, first, with the loan program itself. First Nations require Ministerial Loan Guarantees (MLG) to access funding for new homes, yet Bands under TPM are not eligible to obtain MLGs (TBC, 2008). As in many communities, infrastructure issues are deeply intertwined; in Barriere Lake the diesel generator is at capacity, making new housing construction impossible, but electrification efforts have stalled in negotiations for decades because of funding disputes (Pasternak, 2017). A decade under third party management has worsened the crisis, though, because it prevented the construction and *renovation* of homes.

Second, the Section 95 Program itself has been partially blamed for communities landing under the intervention policy. The Section 95 Program is run in partnership between CMHC and ISC, where ISC is the lead at providing risk profiles for Section 95 loans to communities, which is included in the ranking of First Nation applicants according to need. The Department's first vets applicants for MLG eligibility, then assesses qualified First Nations based on a ratio of two criteria: housing density and housing disrepair (Horn, Aug. 13, 2021). First Nations with the higher percentage of housing need and greater percentage of housing disrepair move to the top of the list, as CMHC employee Frank Horn told me, then CMHC conducts their own internal assessment (phone, Aug. 13, 2021). But in policy reviews, this formula was found to be grossly uneven in application across regions. Some regional formulas have not been updated since the 1990s and others are using single-index indicators for complex calculations (INAC, 2016).

In 2010, INAC hired KPMG to undertake a review to examine several questions, including: "To what extent has MLG defaults and arrears contributed to a First Nation being placed in Third-Party Management or Co-Management?" (9). Over half the First Nations and INAC employees that auditors spoke to reported knowledge of First Nations under intervention due to financial difficulties of loan repayment for housing. Many First Nations reported that they had traded one problem – insufficient housing – for another – unmanageable debt (INAC, 2010, 35. See also: AGC 2008 and AFN, 2005).

Despite these findings, KPMG auditors state that there is “little evidence” to suggest a link between DPMP and MLGs (2010, 38). Instead, the auditors attribute long-term debt to “anecdotal evidence” that “management decisions” are at fault for operating deficits and cumulative debts (2010, 38). While this is no doubt the case in some communities, there is ample evidence to suggest these decisions reflect sensible choices within impossible circumstances. CMHC auditors confirmed that, “the revenue sources that are available to First Nations (the Section 95 subsidy, rents, and Band funds) are not covering the monthly costs of Section 95 units” (2017, 1). This shortfall of mortgage subsidies can lead Bands to spiral into debt.

Another “management decision” that can lead to debt includes the reluctance of Band leadership to charge rent in communities experiencing poverty and unemployment (SSCAP, 2015, 27). Prior to 1996-7, an insufficient subsidy led to a high level of mortgage default (CMHC, 2017). At Gull Bay, for example, default on their MLG put the Band under TPM, under which they could no longer access housing loans. By the time they came out of TPM, 50 homes had to be torn down due to lack of maintenance, costing the community far more to build new homes than maintain their stock. As Chief Wilfred King explained, the MLG was also accruing interest, turning the original $2 million debt into an $11 million debt (King, phone, Sept. 28). But even with an 89 percent state subsidy for mortgages on reserve today, 11 percent can be difficult to collect for some communities. Therefore, Bands struggle to accrue “replacement funds” meant to be put aside from these rents and mortgages, to save for capital repairs. CMHC reports that for 75 percent of Bands, these funds are non-existent (CMHC), so Bands use other O&M and capital funds to cover the loan payments (Horn, phone, Aug. 13, 2021). Bands are also on the hook for any changes to the price of construction materials, triggering DPMP (Cochrane, phone, Aug. 5, 2021).

Once under DPMP, the impact on community housing stock is profound, creating another infinite loop of debt. Our research shows that while under intervention from 2011 to 2016, the 151 communities under DPMP at the time saw a decrease on average of 10 suitable homes and an increase of twenty-four homes in need of major repairs. These figures represent 3 times the average in each area. We also found that there is no difference in the age of housing stock between communities that are under DPMP versus those that are not under it, which shows these communities are experiencing a significant deterioration of existing infrastructure and that the lack of maintenance is the cause.

The costs of these funding shortfalls have ripple effects within families and can be particularly severe for women and children. Nottaway explained that men usually kept the homes when families split up in Rapid Lake. With overcrowding at an average rate of 15 people per 2-bedroom house, social issues quickly spin into deeper crises. Barriere Lake chief Tony Wawatie described the constant involvement of child welfare services due to the housing shortage (phone, Sept. 1, 2021). He said the Band has to repeatedly explain to the agency that there is nowhere else for parents to go but to live in these conditions, since no new housing had been built in the community since 1995. Nottaway said she was worried about child welfare getting involved if she could not find safe housing by winter (Nottaway, Aug.30, 2021).

By all measures available for this analysis, communities under DPMP are found to be experiencing more challenges: lower incomes; lower homeownership rates; more crowded housing; and homes in poorer repair. For example, even average after-tax income of two-or-more-person households under BWAs on DPMP is more than $10,000 less per year than for communities not under BWAs or DPMP.[19]

The Power of Debt

In previous writing, I dubbed the default managers “mercenaries” (2015a), since third party management, especially, is private, lucrative work delegated by the state to implement crushing fiscal discipline on First Nation reserves. Through this current research, I discovered default managers who endorse this description, feel uncomfortable or disgusted by the abuses allowable through the policy, and some who were working to challenge the frameworks of federal funding to treaty-based approaches (Jimmy, phone, Aug. 10).

A major issue identified by managers and audit reports is the nearly absolute delegation of power to the managers themselves. Private sector contractors are hired by ISC to implement the policy, with historically few benchmarks for success, a weak monitoring system, and unheeded evaluation measures. In 2003, the AGC found no indication that INAC assessed the managers’ performance and there was no monitoring of whether managers visited the community, as required. Therefore, unsurprisingly, the AGC found no meaningful exit strategies once communities were placed under TPM (2003, 12). Five years later, an internal INAC report in 2008 showed that forty-two percent of Bands under Intervention as of March 2010 had been stuck there for ten or more years (vii).

In 2013, the Department instituted an accountability framework in the form of Management Action Plans (MAPs) developed between the manager and the First Nation, then submitted to the Department to ensure progress in debt remediation (ISC, 2013). But there do not appear to be skilled financial officers verifying or closely monitoring these MAPs and not much has changed in practice, according to managers. As Jimmy (phone, Aug. 10, 2021) explains: “some of these reporting requirements under DPMP are just checking off the boxes or feeding the ISC paper machine.” Mark D’Amato, who worked as a manager for dozens of Bands across the country, concurred: “The way the system works is you fill in your reports, and you send it in, you feed the monster and then the computer digests it” (phone, Aug. 18, 2021).

The policy has also shifted in recent years from a focus on compliance reporting to capacity building since a lack of advanced accounting and financial administration skills can intensify fiscal problems for communities. Chief of Northwest Angle Darlene Comegan described challenges in both recruiting people into training programs, but also the lack of experienced managers to run complicated programs and direct grant applications (phone, Aug. 19, 2021). Manager Mark D'Amato stated that it is easy to get out of debt if you have the right knowledge and experience (phone, Aug. 18, 2021). He laments that ISC has no first-hand knowledge or experience to understand where and how these gaps need to be filled.

This dependency on external accountants creates more liability and potential for malfeasance. A policy where third party managers have absolute control over Band finances without close monitoring and oversight is a moveable feast that can creates an added debt burden for First Nations. Until 2017-2018[20], First Nations paid managers out of Band Support funds – monies meant for governance and administration (Beaudoin, 2017; INAC 2008), eating up needed funds and valuable opportunity to generate sufficient surplus to pay down debts. In 2003, the AGC reported that DPMP accountants were making between $195,000-$312,000 per year with total managers' salaries amounting to around $50 million per year. By 2017, those salaries had climbed into the range of between $141,000-$423,826 per year (HOC, 2016). By rough estimates, this amounts to approximately half a billion dollars paid out over fifteen years by some of the poorest First Nations in Canada to private accountants hired by ISC.

As Chief Wilfred King of Gull Bay First Nation told us, "It's a very insidious policy" (phone, Sept. 9, 2021). He cites the high fees of managers, and the many cases they have been charged with fraud, mismanagement, misappropriation and embezzlement (CBC, 2014; Galloway, 2017; Popplewell, 2010). "I think it's a policy," he said, "that should have never taken place."

Conclusion

Infrastructure, debt, and colonialism on First Nations reserves is part of a large pattern of global imperialism that operates through the cudgel of economic dependency. Atom Getachew (2019), for example, shows how austerity and structural adjustment programs were made possible because of the debt load of newly decolonized countries. "Structural adjustment" programs led by the World Bank and International Monetary Fund deepened third world entanglement in global capitalism and therefore strangled the possibilities for self-determination in anticolonial nationalist states.

Within advanced capitalist states like Canada, debt also acts like a structural adjustment program, winding Indigenous economic dependency on the state more and more tightly around the axis of colonization. As Chief King stated, what is most insidious about third party management is that "you didn't only lose financial control, you lost political control as well" (phone, Sept. 9, 2021). From the early days of colonialism, debt has been a tool and a weapon of colonial control. In the nineteenth century, First Nations were considered too "improvident" with cash by fur trade companies and governments to deal directly with the potency of money (Gettler, 2020). This cash reluctance was cover for keeping Native trappers indentured within a system of extended credit and trade, where close monitoring by traders of Indigenous wealth was ensured while simultaneously enabling the growth of commercial markets and colonial expansion (Gettler, 2020).

Debt, however, has no magical transhistorical property that imbues it with colonial power. While once it secured Indigenous alliance to an economic system of trade, today it is a highly rationalized system of fiscal accountability that governs reserve life. In Patrick Wolfe's famous and widely authoritative formulation, "settler colonialism is a structure, not an event" (2006, 388), he urges us to think beyond colonialism as a historical artefact and towards a social order that embodies – in multiple ways – a logic of Native elimination. Today, First Nation debt is produced in a highly sophisticated fiscal system that can rationalize the most brutal forms of austerity through the language of accountability. The trick is that despite the proliferation of fiscal "tools," the lack of restitution and reparations for land theft and ongoing occupation is the actual source of "debt." Therefore, a critical framework in which to re-situate First Nation debt is the politics of dispossession, to re-link socioeconomic issues – and its intimate geographies – with land-based struggle. For example, it was settler infrastructure, a dam built by Manitoba Hydro, that once put eight First Nation communities into debt. The North Central Project dam brought landline electricity into northern Manitoba but denied First Nations retrofit funds to access the grid. Instead, Canada offered interest-free loans against future capital dollars, but these were insufficient, and some Bands ended up in TPM for decades (Cochrane, phone, Aug. 5, 2021).

As for how colonialism makes it world, *proof of concept* for colonialism seems to be *poverty*, represented by crumbling infrastructure and the "dysfunction" that it engenders. As Chief Tony Wawatie of Barriere Lake stated (phone, September 1, 2021): "Damn right we're dysfunctional because of your imposition of the council system that takes away who we are as people, *because of the land that you want*." "Poverty" is a political structure; it is not an objective economic condition. In the space of land struggle in Canada, it is imperative to link its infrastructures of debt to critical theories of dispossession.

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[1] This compound phrase is a legal term; it describes both the invention of "Indian status" by colonial authorities, and its severe attenuation of Indigenous nationhood, as well as its correlation of entitlement to space – the reserve – that is also a colonial construct and a radical reduction of Indigenous territory.

[2] Most funding to Bands and groups are federal transfer payments, but also land claim settlements, self-government agreements, own source revenue, and a handful of other sources. According to INAC, from 2011-2015, the majority of 550 First Nations and Tribal Councils were under "fixed" funding that renewed on an annual basis (ATIP AI-2014-01082 / PS: Funding Information for First Nations). I could not obtain an updated list from ISC, but the situation has likely shifted with the 2018 introduction of 10-year funding agreements.

[3] The date compiling lists of all Bands under DPMP and related Intervention policies comes from access to information requests. Some of these files include: A-2016-01115; A-2015-00511; A-2015-01156; A-2018-00043; 2021 03 10 ISC request A-2019-00452; A-2018-00079_2018-08-07_15-31-23; ISC-A-2020-00053; 2021 02 23 ISC-2019-00452.

[4] This figure can fluctuate based on how much information ISC chooses to release at different times. Ryan Moore currently has a complaint to the Information Commissioner on the department's withholding of this data.

[5] IIJ and Yellowhead Institute, where I was Research Director, signed a partnership agreement to work together on this research. Special thanks to Patti Sontag for supporting this research and to Martha Troian for her research contributions to the project and several very long phone conversations on the subject. Special thanks as well to Karyn Pugliese for initial conversations and leads she provided on the topic.

[6] See, Housing Highlight Tables, Statistics Canada, Dwelling condition by housing tenure, % change 2011 to 2016, major repairs needed, Canada, provinces and territories, 2011 and 2016 censuses – 25% Sample Data: https://tinyurl.com/yevnwd6x

[7] Aboriginal Affairs and Northern Development Canada, 2011, "Directive 210: Third Party Funding Agreement Management," accessed Mar 24: https://www.sac-isc.gc.ca/DAM/DAM-ISC-SAC/DAM-CORP/STAGING/texte-text/tpf_1325169634832_eng.pdf The earliest reference to default management dates to the *Intervention Policy* introduced in 2001 (AG, 2003), followed by the *National Third Party Managers Policy*, introduced in April 2003 (AG, 2003). In 2006, the *Intervention Policy* was introduced (renamed *Funding Arrangements: Intervention Policy* in 2008)[7]; consolidating previous intervention policies. A "Companion Initiative" was introduced alongside it, to develop the *capacity* of recipients under intervention (INAC, 2006-7), followed in June 2011 by the *Default Prevention and Management Policy*, in which the capacity development was now embedded. The *Directive on Third Party Funding Agreement Management (TPFAM)* was also released in 2011 with the introduction of the DPMP.

[8] The policy basis for DPMP likely lies in the *Financial Policies and Procedures Manual* published by ISC, which draws its authority from the Treasury Board of Canada.

[9] The Canadian Human Rights Tribunal identified this gap as problematic, where they chastised Canada for discriminatory “compatibility standards” between First Nations and Canadians (2016, at 465). Funding can also be cut off at any time (INAC, 2013).

[10] There are four triggers for the policy. These include an 8 percent cumulative operating deficit of a Band Council’s total annual operating revenues, and the belief – held by the Minister – that essential service delivery is compromised, and community members are at risk (ISC, 2013).

[11] Debt reduction plans have tended to reallocate 10 percent of “revenues” targeted towards debt repayment (AGC, 2003) and managers were initially instructed to deposit these “surpluses” into the Minister’s account and not to creditors (*Choken*, 2005). Today, Band funds are held by a bank and the account is controlled by the manager.

[12] The name of this department changes frequently. Until 2011, it was Indian and Northern Affairs Canada (INAC), and then it became Aboriginal and Northern Affairs Canada (AANDC), before becoming INAC again, this time Indigenous and Northern Affairs Canada in 2015. In 2017, it split into two departments: Indigenous Services Canada (ISC) and Crown Indigenous Relations (CIR). Most people still refer to both departments as INAC.

[13] For example, read McAuliffe’s work (2021) on the General Assessment Tool.

[14] Full coverage of infrastructure costs (100 percent) is limited to educational facilities. But according to OFNTS (2018), even this figure is based on INAC assessment of need, not actual costs.

[15] Major Capital represents around 26 percent of the infrastructure budget and funds major construction or repairs. Minor Capital represents around 38 percent of the budget and funds minor repairs, renovations, and upgrades.

[16] See also AFN (2018) for a critique of the remoteness index.

[17] See for example, the 10-year funding grant, starting April 1, 2020, was promised in the budget that, "funding for core programs and services provided through the 10-Year Grants" should be escalated annually to "address key cost drivers including inflation and population growth" (GOC, 2019).

[18] A water treatment plant was built by the government in the late 1970s for use by the non-Indigenous teaching staff at school and non-Indigenous medical and nursing staff at the clinic.

[19] Note that we did not adjust for pre-DPMP incomes in this case, so we can establish correlation here, but not certain causation.

[20] In 2017-2018, INAC suspended requirements that Bands pay DPMP consultants out of their Band funds and began to allocate funding in contribution agreements to cover DPMP costs. However, the policy has still not been updated to reflect this political announcement.