

# Introduction

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This book is the product of discussions and research of a collaborative nature that reach back to the early 1990s, when six scholars from Simon Fraser University, Osgoode Hall Law School, and the University of Victoria embarked on an extended investigation of the history of law as an instrument of social control, moral regulation, and governmentality in Canada. Given the research interests of the participants, the primary focus of the work was British Columbia. As some of the scholars had worked with graduate students doing research in the general area and were able to engage others in this project as it developed, interest in the project spread beyond the original six researchers to incorporate work originally presented in doctoral or master's theses.

In this series of essays we include writings by four of the six academics who contributed to the project from the outset, and by five younger scholars who were drawn in as it progressed. As a result we have been able to chronicle the historical operation of the law in a number of different social and cultural contexts in which it has been mobilized to define and manage deviancy as part of a process of social control, moral regulation, and governmentality. The contexts and processes relate to the sex trade, the spread of venereal disease, the use and abuse of liquor, child welfare, mental disorder, intrafamily sexual abuse, Aboriginal culture and tradition, and Doukhobor beliefs and customs. The research in each case involved lengthy forays into archival material at the national, provincial, and local levels. Although the scholarship in question reflects the individual interests of the participating scholars, from the start we have been concerned to create and maintain a set of intellectual themes. These themes have guided the construction and content of the contributions. We were also determined to bring out the connections between the various substantive topics and regimes of control, regulation, and governance that have developed around them.

The book comprises nine chapters, each of which represents a critical site of intersection between the state, law, social control, moral regulation, governmentality, and the populace in British Columbia history. We have arranged the nine contributions in rough chronological order. In Chapter 1, Jay Nelson explores the legal and cultural responses to intermarriage between Aboriginal peoples and European settlers in colonial British Columbia. Gerry Ferguson in Chapter 2 chronicles the origins and evolution of psychiatric care and control practices during the mid-nineteenth century. Chapter 3 is Mimi Ajzenstadt's analysis of prohibition legislation and its impact on racial/ethnic minorities in British Columbia between 1871 and 1927. Following this chapter, Dorothy Chunn addresses incest law and British Columbia families from 1890 to 1940 (Chapter 4); Robert Adamoski charts the history of the Vancouver Children's Aid Society and familial regulation in the early twentieth century (Chapter 5); Renisa Mawani looks at the spread of venereal disease and public health campaigns in Canada from 1914 to 1935 (Chapter 6); and Robert Menzies writes about the mass 'repatriation' of sixty-five Chinese mental patients from BC's three segregative mental institutions in February 1935 (Chapter 7). The book concludes with Michaela Freund's examination of the regulation of prostitutes and other 'disreputable' Vancouver women during the Second World War (Chapter 8), and with John McLaren's exploration of the seizure of Doukhobor Sons of Freedom children in the 1950s (Chapter 9).

### **The British Columbia Context**

In many respects, British Columbia represents an ideal theatre for staging this multidisciplinary inquiry into the regulation of public and private life during the 1800s and the first six decades of the twentieth century. As the 'west beyond the west,'<sup>1</sup> BC was one of the last frontiers of North American colonial conquest, European settlement, and Canadian nationalization. Compressed between mountains and sea, and disconnected by geography and history from the land mass to the east, the colony and province rapidly developed a singular political culture and fiercely regional identity that survive into this millennium. With the wilderness never far removed, images and ideologies of individualism and localism – Europeans as the agents and advocates of order and civilization, and the perpetual threat of encroachment by or descent into 'wildness' – are deeply ingrained in west-coast consciousness. These elements in the mindset of British Columbians were often shared with and influenced by those who settled in the western mountain ranges and on the Pacific coastline of the United States. The vagaries of a resource extraction economy based on fur, rock, and wood; powerful cultural and perceived economic competition from First Nations in the region; anxieties born of 'influxes' of Asian immigrants; austerity and insecurity of life for many; turbulent struggles between capital and labour; and inherent

conflicts of class, race, and gender – all of these issues figure prominently in BC's historical obsession with the problem of social order.<sup>2</sup>

Successively, Confederation, the completion of the Canadian Pacific Railway (CPR), massive immigration, developing national and international trade links, the shadow and then the reality of world conflict, and a burgeoning liberal state in the early 1900s were to challenge the west-coast mindset. British Columbian authorities and citizens were perceptibly, if grudgingly, shaken out of their preoccupation with exclusively provincial issues and forced to take account of the world, including those parts of North America and Europe whence the majority had originally come, and beyond. The regionalist spirit of the province increasingly mingled with wider national identities and global preoccupations. From 1870 to 1920, the frontier province underwent dramatic transformations that made it a more economically diverse, hierarchical, urbanized, and ethnoculturally plural society. In this fluid setting, traditional relations of public and private life were replaced or reconstituted as British Columbian European society and its leaders sought to accommodate to or control change and its human dimensions. Part of this movement was the emergence of both imported and homegrown stratagems and experiments to inspire commitment to citizenship based on British values, and to regulate the lives of those ignorant of or resistant to civic virtue and moral rectitude. Towards the end of the period, the provincial government took its first steps towards the construction of the welfare state. After 1920, during the interwar period, anxieties about political and social disruption intensified in the province. Amid worsening labour strife and political division, some feared that the collapse of British institutions was imminent.

In response, the political and social leadership of British Columbia frantically searched for both tested and new ideas and methods to (re)order the 'difficult' segments of the population and secure a recommitment to civic virtue, social compliance, and economic initiative. Emulating jurisdictions elsewhere, but also following its own unique trajectory, BC became a social laboratory where authorities, in concert with assorted religious and secular organizations and leaders, strove to bring its citizenry under political, legal, moral, and self-control. The Second World War, a period of perceived national emergency, was to accentuate concerns about the subversive potential of several minority segments of the population and produce new and focused rounds of racial and gender discrimination. In the postwar period there was evidence of a new-found spirit of tolerance among British Columbia's population and its political representatives, and some of the more egregious practices of discrimination along racial lines were stopped. But it was still possible for the government to take draconian action against the province's most despised religious and cultural minority, the Doukhobor Sons of Freedom.

This book engages squarely with the problematics of government and civic regulation, and the diversity of responses from citizens of BC during these often tumultuous times. In these chapters we ponder some of the key ideas that have propelled the historical study of relations between the state, society, the individual, and the law in recent years. In particular, our authors apply the concepts of social control, moral regulation, and governmentality, as they have been developed elsewhere by such theorists as Stanley Cohen, Michel Foucault, Philip Corrigan, Alan Hunt, Mariana Valverde, and David Garland,<sup>3</sup> to the specific conditions that prevailed in early British Columbia. In this sense, the book is inherently comparative. We are interested in exploring the relevance of these influential social theories to the British Columbia context. In so doing we hope to demarcate in part the relative representativeness in BC of historical trends, ideological currents, and human experiences that unfolded elsewhere.

To what extent can we speak of a unique socio-legal history in British Columbia, and of the attendant need for a separate field of inquiry into regulatory practices situated in this province? As noted above, British Columbia has a reputation for going its own way politically, socially, and legally in constructing and addressing deviance, not to mention ethnic and social difference.<sup>4</sup> Yet, at the same time, many of the studies in this collection project far beyond the provincial borders in thematic, substantive, and human terms. Mawani's chapter, for example, demonstrates how moral ordering practices in central Canada were integral to an understanding of the control of venereal disease control in British Columbia. For his part, McLaren traces the history of governance of Doukhobors in BC, Saskatchewan, and tsarist Russia. Similarly, as Nelson, Chunn, Ajzenstadt, and Menzies show, national preoccupations and legal doctrine emanating from the federal state were integral elements in the regulation, respectively, of BC family life, drinking behaviour, and immigrants deemed to be insane.

The extension beyond British Columbia of the above analyses, therefore, provides a useful basis for assessing the degree to which regimes of control and regulation in Canada's most westerly province were in fact *sui generis*, reflecting local conditions and belief patterns; were influenced by trends or movements that were national and international in scope; and/or had their roots in other regions, provinces, or countries. Ultimately, we hope to demonstrate that the historical study of law, society, and the state must reflexively negotiate the boundaries between centre and periphery, local and global, province and nation. Ideas about and experiments with social control, moral regulation, and governmentality reflected external influences from elsewhere in Canada, from the United States, from Great Britain, and from other parts of the white British Empire. At the same time, British Columbians produced idiosyncratic and syncretic responses to actual or perceived social tensions that were based on their reading of provincial, regional, and local

conditions. At both a political and psychological level, British Columbian regulatory initiatives, particularly those directed towards Aboriginal peoples and non-European immigrants, had impacts outside the province.

In addressing these questions and introducing the substantive work that comprises these nine chapters, this book contributes to the growing body of socio-legal history that has emanated from British Columbia over the past two decades. As the following pages will show, our contributors have built on an impressive foundation of multidisciplinary scholarship that is indigenous to this province. BC is no longer a bystander in the Canadian movement towards a distinctive field of historical socio-legal studies. Through the work of researchers like Barry Gough, Hamar Foster, Mary-Ellen Kelm, Indiana Matters, Angus McLaren, Tina Loo, and David R. Williams,<sup>5</sup> among many others,<sup>6</sup> we have learned much in recent years about the relations between authorities and subjects in this province's past. Indeed, without this recent BC-centred research and the interest it has generated, a book such as this would have been unthinkable. While presenting new findings, this edited collection also showcases and examines the wider tradition of British Columbian historico-legal scholarship.

### **Social Control, Moral Regulation, and Governmentality in Historical Inquiry**

These chapters variously incorporate three interconnected lines of social inquiry. The triad theories of social control, moral regulation, and governmentality have been influential over the past thirty years or so in explaining the phenomenon of the deployment of law and modes of control as instruments for suppressing and policing activities that are labelled as socially deviant. In this section we introduce three concepts at the heart of these theories, and preview their role in framing the book's main themes, which are canvassed in the latter sections of this introduction.

In various ways the authors are informed by these three theoretical approaches in their explorations of relations between the state, the social, the self, and the law in British Columbia history. In our own conceptual scheme, each of these analytic frameworks for interpreting the phenomena and practices of social order has much to offer. From the revisionist social control theories of the 1970s and 1980s (with their centring of the state), to the moral regulation literature of the 1990s (with its accentuation of civil society), to recent writings on governmentality (with their highlighting of the self), there is much opportunity for reflexivity and fusion in the advance of historical understanding.

A flexible and integrative analysis shows the many convergences, as well as departures, of emphasis and direction among these three theoretical traditions. It also reveals that none is entirely coherent internally, nor sufficiently broad or deep to subsume the full complex of discourses, structures, and

practices that frame the regulation of human life. We argue, therefore, in favour of an inclusive, dialectical, and materially grounded approach that traverses the traditional dichotomies of state and civil society, public and private, power and resistance, law and social control, authorities and subjects. Instead of declaring a one-sided theoretical allegiance, we chose to incorporate the insights of these three potent constructs – social control, moral regulation, and governmentality – into a multidimensional study of public order, law, and the British Columbian state and citizenry from the early 1800s to the mid-twentieth century.

### **Social Control**

The task of even defining ‘social control,’ much less incorporating it systematically into historical inquiry, is problematic. As Chunn and Gavigan have observed: ‘There is probably no concept that is used more widely and with less precision than that of “social control.”’<sup>7</sup> The authors go on to suggest that even the most serious attempts to construct a universally applicable definition for the term have failed because of the inevitable ambiguities that result.<sup>8</sup>

Some theorists and researchers, especially in the instrumentalist traditions of radical criminology and critical legal studies,<sup>9</sup> have tended to equate social control with state repression. For them the public deployment of law and other coercive mechanisms of centralized government is the core subject of inquiry. Social control occurs as a state apparatus on behalf and at the behest of powerful elites. In our view, however, such a conception – like the concept of moral regulation (see below) – is unproductive and myopic because it disregards the manifold ways in which lives are subject to social control in both public and private spaces beyond the purview of the state.

Other scholars have used ‘social control’ in a highly abstract fashion. In their view it embraces a sweeping variety of mechanisms and strategies – laws, custom, rules, practices, and moral precepts – used consciously by the state or powerful groups within it to induce or educate individuals and groups to conform to some common vision of normality and virtue. For our purposes, this catch-all definition is also less than helpful because significant segments of human activity, not least generic education policies and practices and other general modes of socialization, fall within its embrace. In other words, the definition is too vague and inclusive. It is what Stanley Cohen has labelled ‘a Mickey Mouse concept’ – ‘a neutral term to cover all social processes to induce conformity from infant socialization to public education.’<sup>10</sup>

The meaning we have chosen to give to the term ‘social control’ occupies a space between these two conceptual extremes. It emphasizes what Cohen

has described as the 'planned and programmed response to expected and realized deviance rather than ... the general institutions of society which produce conformity.'<sup>11</sup> A working definition that appeals to us is that utilized by Cohen in *Visions of Social Control*:

Social control ... the organized ways in which society responds to behaviour and people it regards as deviant, problematic, worrying, threatening, troublesome or undesirable in some way or another. This response appears under many terms: punishment, deterrence, treatment, prevention, segregation, justice, rehabilitation reform or social defence. It is accompanied by many ideas and emotions: hatred, revenge, retaliation, disgust, compassion, salvation, benevolence or admiration. The behaviour in question is classified under many headings: crime, delinquency, deviance, immorality, perversity, wickedness, deficiency or sickness. The people to whom the response is directed, are seen variously as monsters, fools, villains, sufferers, rebels or victims. And those who respond ... are known as judges, policemen, social workers, psychiatrists, psychologists, criminologists, or sociologists of deviance.<sup>12</sup>

The definition is broad enough that it embraces conduct, judgments, practices, and agency that are not strictly the preserve of the criminal justice system, but which would fall within other control systems; for example the domains of psychiatric management and treatment, child protection, and public health control. Moreover, it gainsays the linking of 'social control' to formal systems of coercion, regulation, and manipulation. In other words, it is not confined to institutional mechanisms for inducing changes in behaviour, such as the activities of courts, tribunals, asylums, and hospitals, but extends to more autonomous methods of applying pressure to groups and individuals. Thus the definition includes the moral and legal pressures brought by settler society against traditional marriage practices between Aboriginal women and white men chronicled by Nelson, the individualized activities of social and childcare workers seeking to direct the lives and behaviour of children in care explored by Adamoski, and the prostitutes and 'loose' women and girls examined by Freund. In the same vein, both Ferguson and Menzies, in their discussion of the treatment of mental patients, draw our attention to the important role of psychiatrists in creating and sustaining regimes of social control. Mawani and Freund do the same for public health officials in their respective studies of venereal disease and prostitution. Freund's chapter is also revealing in what it says about unofficial modes of regulation, such as informal pressures applied to and harassment of 'deviant populations,' in this case working-class women and girls, by another professional group, the police.

Cohen's definition also accommodates a diversity of motives behind social control, recognizing that the impact of deviant or troublesome behaviour evokes different mental reactions in those who are directly or vicariously affected by it. What his definition excludes are both purely conventional educational strategies and mechanisms and broader patterns of socialization that provide for the diffusion of ideas about desirable conduct and virtue. Education and socialization are in fact not irrelevant to our study. As McLaren's study of the internment of Doukhobor Sons of Freedom children reveals, that experiment was prompted by the state's desire to turn the minds of the young by a combination of placing them in detention and reeducating them in 'Canadian' ways. However, this was far more focused and coercive a program than the general education of children.

We would add a further important element to the meaning of 'social control' that we believe is indispensable to its understanding in the historical context in which we propose to use it: social control mechanisms can be applied to individuals who happen to be members of groups constructed and defined by the dominant society or its leaders. At the same time, such mechanisms can be and have been utilized to constrain groups who are culturally organized and recognized as such by those within their ranks. In this series of essays we have studied both forms of social control. Nelson's examination of Aboriginal-settler intermarriage in nineteenth-century BC, McLaren's chapter on the Sons of Freedom children, and Ajzenstadt's discussion of minority-member liquor entrepreneurs and the law fall clearly into the latter category. The other chapters focus more on the application of the law to police individuals whose behaviour falls into patterns of deviance and irresponsibility as constructed by the state or powerful interests in the dominant community, and who are as a result categorized as members of a problem population. In both these contexts of experience, collective and individual, the social control construct has much explanatory value.<sup>13</sup>

### **Moral Regulation**

Social control theories have been criticized for placing too heavy an emphasis on the role of the state in ordering people's lives and for exaggerating the control element. It has been correctly observed that attempts to develop regimes of control for individuals and groups within society have often found their original inspiration in both professional and reformist initiatives, with the state (if it is engaged at all) a relative latecomer to the process.<sup>14</sup> Much greater weight, it is argued, needs to be placed on professional and reformist discourses and the practices they supported. At the same time, it should be recognized that professional and reformist prescriptions for dealing with deviance have never been uncontested and have met with resistance, particularly from those at whom they are aimed.<sup>15</sup> These critiques of social

control have led some theorists to favour moral regulation as a more meaningful organizing theme, one that downplays the role of the state and recognizes a more variegated and less even and consistent pattern of ordering.

The leading theorist in this vein is Michel Foucault. It was Foucault who exposed the power and influence of professional discourse in defining deviance and explaining the role of professional ideology and activity in disciplining it and regulating its practitioners.<sup>16</sup> In the process he drew attention to the often diffuse and diverse nature of disciplinary power – the capillaries of power, as he has described them – and the reality of resistance within the populations to whom power and authority are applied.

If theorists such as Cohen have helped to illuminate how social control theory emphasizes the role of the state in social ordering, the work of Foucault and his disciples has proven valuable in directing our attention to other sources of social disciplining. The concept of moral regulation requires theoretical excursions beyond the state and into ‘the social,’ where control is a mundane and multidirectional phenomenon. Moral regulation theorists aspire to negotiate the interstices between the state and the social. In the process they seek to demonstrate how ordering discourses and practices traverse the social landscape and move freely through cultural and institutional space. As Alan Hunt has correctly observed, ‘Moral regulation can be generated from a variety of different social positions,’ and therefore ‘importance [must] be attached to identifying the social location of the regulatory agents and the forms of alliance exhibited in projects of moral regulation.’<sup>17</sup>

Writers on moral regulation have, however, differed markedly in their relative adherence to such multi-sited models, in their conceptions of hierarchy and affinity, and in their understandings of the power relations that prevail between moral regulators, the citizenry, and the state. In his original formulation, for example, Philip Corrigan was primarily concerned with the development and empowerment of the state through the moralizing and normalizing campaigns that are waged in civil society.<sup>18</sup> He underscored the hierarchical and centralizing forces that both propelled and were enhanced by the words and deeds of moral regulators. Ingrained in this position is the idea that state officials and their allies launch moral ‘crusades,’ ‘panics,’ and ‘control waves’<sup>19</sup> both to reinscribe their own legitimacy and to publicize the moral unworthiness of subjugated others. They harbour judgments about the intrinsic wrongfulness of the targeted people and behaviour, along with a sense of superiority among those wielding power. In this sense, moral regulation is inherently hegemonic.<sup>20</sup> The state invokes, and if necessary invents, public discourse as a means of securing compliance. Such practices are also ideological in the classic sense that they disguise or invert meaning, and obscure the inequalities and injustices that they perpetuate. In a widely quoted passage, Corrigan and Sayer write:

Moral regulation is coextensive with state formation, and state forms are always animated and legitimated by a particular moral ethos. Centrally, state agencies attempt to give unitary and unifying expression to what are in reality multifaceted and differential experiences of groups within society, denying their particularity. The reality is that bourgeois society is systematically unequal, it is structured along lines of class, gender, ethnicity, age, religion, occupation, locality. States act to erase the recognition and expression of these differences.<sup>21</sup>

At the same time, other strands of moral regulation theory have concentrated more on the constitutive functions of moral codes and campaigns in forming the self. As Hunt observes,<sup>22</sup> writers like Mitchell Dean<sup>23</sup> address 'practices of the self' in which people 'seek to know, decipher and act on themselves.'<sup>24</sup> This more privatized and voluntaristic understanding of moral regulation enters the ethical and cultural realm of citizens' identities. It emphasizes the productive and persuasive over the compulsory and punitive side of authority-subject relations. It is also more apt to underscore the potential for mobilizing morality apart from, or even in opposition to, the state and powerful elites. The discursive and idealist bent of such theorizing seems distant from the explicitly coercive state systems and practices that dominate the writings of both instrumental control theorists and writers such as Corrigan and Sayer.

As with social control theory, in writing about moral regulation in this book, we and our authors endeavoured to steer a middle course. For us, moral regulation transcends the state and the social. It is therefore unproductive to situate either at the centre of analysis. As Hunt insists,<sup>25</sup> moralizing discourses and practices take many forms; they are simultaneously public, private, and personal; they range widely in efficacy and intensity; they may at once inspire condemnation and support; they inherently embody the potential for resistance; and they can emanate at once from above, beside, or below any given social station.

Several chapters in this book lend weight to the notion that different regimes of moral regulation in British Columbia have not been cut from the same cloth. In certain instances the state has been the prime mover, as in the case of the Sons of Freedom Doukhobors, whose story is told by McLaren. Professionals have been prime movers in other cases, such as the public health doctors who pioneered venereal disease control and provide a focus for the Mawani and Freund chapters. The development of the mental health regimes described by Ferguson and Menzies presents another model in which professionals – psychiatrists – replaced inspired amateurs, who were the pioneers in developing therapeutic confinement of the mentally ill. To a large extent the same was true of the institutionalization of juvenile offenders, discussed by Adamoski, where trained social and childcare workers came to

the fore only after the foundations of the system of industrial schools had been established by lay reformers. In other areas, such as the prohibition of intermarriage, the regulation of liquor, the control of prostitution, and the reaction to intrafamily sexual abuse examined by Nelson, Aizenstadt, Freund, and Chunn respectively, the state became active only after sustained pressure from amateur moral and social reformers who badgered legislatures and government bureaucrats into action.

Moreover, all of the chapters demonstrate the truth of the assertion that regimes of regulation generate resistance within the subject groups to whom they were applied. This is as true of the chapters on the experience of cultural communities such as the Sons of Freedom and Aboriginal bands, as it is of those on the fate of mental patients, juvenile offenders, and prostitutes and 'loose' women. In some instances, resistance is shown by dramatic actions by the targets of control, as in the case of the protests of the Sons of Freedom. In others, the resistance is less readily apparent, the message coming through what is reported in official records and communications and, therefore, refracted by officials and bureaucrats. This is especially true of the series of single instances that makes up the records of the institutions, professionals, and reformers dealing with vice, venereal disease, intermarriage, family violence, juvenile delinquents, prostitutes, and 'immoral' females in the young colony and province of British Columbia.

### **Governmentality**

The third influential thread of social theorizing, also inspired by Foucault, is woven around the construct of governmentality. In the latter part of his career, as Hunt observes,<sup>26</sup> Foucault was immersed in a project that aimed 'to show how the government of the self is integrated with the government of others.'<sup>27</sup> Never fully realized, this work has nonetheless spawned an influential body of writing that, while situated largely in the present context, has a bearing on the historical study of socio-legal order. This 'Foucault effect'<sup>28</sup> embodies the entire spectrum of 'mentalities and rationalities embedded in practices of governing' and comprises an immense amalgam of ordering practices – 'a shifting complex of projects of governance.'<sup>29</sup>

For Foucault, new modes of ruling accompanied the 'governmentalization of the state'<sup>30</sup> that occurred when modern liberal democracies supplanted the ancien régime. That changed again when liberalism gave way to welfarism in the twentieth century.<sup>31</sup> With emerging forms of scientific administration, the closing of social distance between government and people, 'the rise of the utilitarian reformer,'<sup>32</sup> and a galaxy of new vocabularies, techniques, and tactics, the relationship between the nation and the individual underwent significant transformations through the 1800s and 1900s. Governmentality simultaneously became a science and an art form, organized in part 'to structure the possible field of action of others,'<sup>33</sup> and in part

to offer ways for citizens to reproduce regulation at every level of social life. In Foucault's words, the lessons of governmentality instructed authorities and subjects alike on 'how to govern oneself, how to be governed, how to govern others, by whom the people will accept to be governed, and how to become the best possible governor.'<sup>34</sup>

Governmentality studies articulate between two sides of ruling relations – external public action and internal 'self-constitution'<sup>35</sup> – thereby paralleling Elias's classic studies<sup>36</sup> of the interdependencies between cultural civilizing processes and the development of individual personalities. As Garland writes, governmentality encompasses 'the relations between two poles of governance – the forms of rule by which various authorities govern populations and the technologies of the self through which individuals work on themselves to shape their own subjectivities.'<sup>37</sup> Incorporation of governing mentalities and practices into the everyday lives of citizens, and the complex of ideas and methods through which the self came to be formed and validated in the modern world, were key processes in the governance of nineteenth- and early-twentieth-century populations.

Governmentality is an inclusive (some have suggested overinclusive)<sup>38</sup> complex of structures, forms, discourses, and practices that subsumes and transcends social control, moral regulation, law and state, ruling and resistance. First, governance by definition aspires to far more than just the external social control of civilian populations; it seeks to embrace and refashion them as both subjects and objects of the state's governing projects. Second, whereas 'all practices of governing involve some element of moral regulation,'<sup>39</sup> the moral represents only one of many regulatory fields available to state and citizenry. Simply put, not all governance is moral, and not all morality governs. Third, the liberal and welfarist state and its statutory and other legal structures figure prominently in governmentality projects, but they are often implicated with and even overshadowed by 'strategies of governance from below, initiated by ethnic, religious, criminal and other social groupings and networks.'<sup>40</sup> Fourth, governmentality theory repudiates modernist models of a vertically arranged, unidirectional, centralized commodity of power. "'Governing,'" writes Hunt, 'cannot be adequately encompassed within a hierarchical conception focused on the state or on dominant social or economic classes.'<sup>41</sup> Government can emanate from anywhere and can penetrate every facet of social existence. It infuses the social and penetrates the self. It radiates in all directions. Even resistance itself can be a form of governance, and resistance in turn can contribute to the governance of resisters. All things are possible.

For the inhabitants of early-twentieth-century British Columbia, projects of governmentality were more and more implanted into daily experience. State and professional efforts to create a population of self-regulating citizens were everywhere in evidence. These initiatives were especially transparent

in the fields of welfare, health, and education. As Chunn and Adamoski illustrate in their chapters on, respectively, incest law and child-saving, the regulation of family life in British Columbia was secured largely through the erosion of boundaries between private and public, such that the normative family unit came to reproduce wider control agendas through its own internal governing practices. Through the ministrations of social workers, child workers, clinicians, and legal practitioners, the state and the family became increasingly intertwined. The governance of families – and in particular of the wives, mothers, and children who were purportedly most at risk as both deviants and victims – was therefore not exclusively, or even mainly, an exercise in raw, coercive governmental power. Far more so, it was a loose amalgam of state and civil projects aimed at domesticating the populace and securing compliance by winning the hearts and minds of individual citizens.

Education played an especially pivotal role in effecting the self-governance of British Columbians. In her study of venereal disease control, Mawani chronicles the propaganda campaigns of health officials and social reformers who sought to inculcate moral and sexual restraint among a well-tutored, knowledgeable public. Authorities and experts believed that it was prophylaxis of the mind more so than the body that held the key to both combating promiscuity and stemming the luetic plague. Educated citizens, it was held, would see the dangers of their libidinous ways and would govern themselves accordingly. Similarly, in his study of the state's seizure of Doukhobor Freedomite children in the 1950s, McLaren demonstrates how political elites wielded compulsory education as an instrument for neutralizing ethnic and political dissent. While Freedomite parents had proven themselves impervious to the entreaties of government, their children were seen to be still salvageable. If their young minds could be turned, or so authorities reasoned, the children would recognize the need for outward conformity and internal governance. Through instruction in citizenship, the younger generation of Doukhobors would come to identify with the state and would therefore abandon the rebellious tendencies of their parents. While this experiment in resocialization was mired in contradiction and ultimately failed, as McLaren documents, it nonetheless reflected the crucial role of citizenship education in the governmentality projects of the state in BC.

### **Historical Challenges and Cultural Contingencies**

Theories of governmentality, like theories of moral regulation, are particularly helpful in illuminating how government disciplinary projects were linked with the motives and initiatives of those outside the state – specifically, those responsible for campaigns to constitute, discipline, and bring order to the lives of the socially irresponsible, mentally incapable, and ethnically

different.<sup>42</sup> It is important, however, to remember that discourses and practices of discipline are themselves culturally contingent. There has been a transhistorical tendency among some theorists, including Foucault himself, to assume cultural homogeneity in the practices of Western countries in which governmentality has evolved.<sup>43</sup> Although there is little doubt that the sources of governmentality in all these countries have involved the rise of professional knowledge and discourse, how that has played out in practice has varied significantly in terms of context, substance, and timing.

First, in the Anglo-American experience – and, arguably, in British Columbia – moral and social reformers seemingly played a much more seminal role in developing discourses and modes of action to control and regulate deviance than Foucault and social historians claim they did in France and other parts of continental Europe. This difference reflects fundamental disparities in religious culture. Britain, its colonies and dominions, as well as the United States, had a powerful tradition of evangelical Protestant Christianity with a message of both personal salvation and the need to do good works on earth. This was a major factor that inspired religious and moral activists not only to press for change but also, and more importantly, to sponsor regimes of moral regulation themselves.<sup>44</sup> In the Anglo-American world, from the mid-nineteenth century, there was also a definable women's reform movement at work. This was reflected in the efforts of women sponsoring Magdalene asylums, organizing against the liquor trade, and fighting regulated prostitution.<sup>45</sup> This movement, while it overlapped in terms of interest with male-led or general reform organizations, often had its own agendas and panaceas. It was this constellation of reformers, male and female – involving mental health, juvenile delinquency, prostitution, and sexual immorality more generally – that in many cases engaged in the earliest volunteer and charitable models upon which later professional and state initiatives were built.

Second, Michel Foucault and his disciples, extrapolating from models of state policing in Europe that date from the *ancien régime*, overgeneralize the role of the police within the process of governmentality. He does, of course, frequently employ the term 'policing' as a convenient metaphor for characterizing the whole apparatus of governance. His analysis of the police as a specific institution of the state is, however, confined to the role of the royalist police in the eighteenth century.<sup>46</sup> This force under the magistrature took over the roles of searching for criminals, urban surveillance, and economic and political supervision. Although it was clearly a form of state apparatus, Foucault describes it as involving a power that was somehow larger than the political sovereignty that spawned it:

It is an apparatus that must be coextensive with the entire social body and not only by the extreme limits that it embraces, but by the minuteness of

the details it is concerned with. Police power must bear 'over everything': It is not however the totality of the state nor of the kingdom as visible and invisible body of the monarch: it is the dust of events, actions, behaviours, opinions – 'everything that happens'; the police are concerned with 'those things of every moment,' those 'unimportant things' of which Catherine II spoke in her Great Instruction ... With the police one is in the indefinite world of a supervision that seeks ideally to reach the most elementary particle, the most passing phenomenon of the social body.<sup>47</sup>

Foucault goes on to paint a picture of the police insinuating themselves into every nook and cranny of the social life of the poor and deviant – at once the servants of the King and responsive to demands from below, from the citizenry concerned to incarcerate the 'nuisances' among them. He sees the police as the important 'intermediary network' that acts beyond the 'enclosed institutions of discipline,' filling up the nondisciplinary spaces. They 'filled in the gaps, linked them together, guaranteed with its armed force an interstitial discipline and a meta discipline.'<sup>48</sup> He is not interested, however, in viewing them in particular as the authors of their own forms of professional discourse and practices.

Although the involvement of the police in discipline and surveillance fits our understanding of policing in Britain, its colonies and dominions, and the United States in the late nineteenth and throughout the twentieth century, it does not fit the vision supplied by Foucault. Unlike the absolutist regimes of the eighteenth century in continental Europe, policing and the governmentality projects it represented were highly contested in the Anglo-American world. In these societies many believed that the English owed their freedom and constitutional system in part to a refusal to accept state policing and the fears of tyranny to which it gave rise.<sup>49</sup> This explains why policing in many communities in these countries remained amateurish and local well into the nineteenth century, and in some instances beyond. Furthermore, when this traditional resistance to professional policing crumbled, as it did in the face of the challenges of industrialization and urbanization, it usually did not result in national police authorities or forces. At the same time, because of the historic mistrust of police power, attempts were made to insulate the police institutionally from political interference by the state.<sup>50</sup>

As a consequence, police forces were given significant autonomy as to how they would conduct their work, especially at street level: their exertions were subject most often to boards or committees, supposedly insulated from political influence that had a tendency to identify closely with the operational imperatives of their charges. The point here is not to deny that the police in Anglo-American countries have been agents of discipline and surveillance. They have, but the pace has been slower than that suggested by

Foucault. As well, the use of power and authority has been exercised according to a cultural script that is different from the one described by Foucault. We also believe that it is important to examine police discourse and practice about deviance in their own right because they have been so central to how power and authority have actually been mediated in dealing with forms of deviance in Britain, the Empire, the United States, and, for our purposes, British Columbia.<sup>51</sup>

The previous points underscore the reality that in the Anglo-American world government remained decentralized and disorganized much longer than in the parts of continental Europe considered by Foucault. The pace and timing of the development of governmentality – and the professional discourses and sites of discipline and surveillance that constitute it – do not fit neatly into his chronological matrix. While it may be true that France had developed the phenomenon of the *panopticon*, propelled by professional discourse and worked out in a complex of institutions, for spying on and regulating its problem populations by the early part of the nineteenth century, the same can hardly be claimed for the Anglo-American world. Whether the focus is criminals, the mentally ill, juvenile delinquents, venereal disease, incest, prostitution, or sexual immorality more generally, the pace of change was slow and fitful through that century and, in some instances, into the 1900s.<sup>52</sup> Moreover, it varied between these areas of concern, with control initiatives and new types of institutions developing much earlier in the case of incarceration of serious offenders than in other fields of deviance. Previous methods died hard, as did the tradition of amateurism that pervaded the practices of controlling other people's lives. It is also apparent that the pace of institutionalization and professionalization was slower in colonial territories than in the metropolitan country.

For British Columbia, the implications were profound. It is evident in several of the contributions to this book – for example, Nelson's chronicling of enduring cultural practices of intermarriage in the nineteenth century, and Ferguson's examination of the desultory history of early responses to mental illness in the colony and then province of British Columbia – that systematized and professionalized strategies of regulation were not always high on the list of governmental priorities in this sparsely settled, financially strapped, and far-flung corner of the empire.



The theoretical triad of social control, moral regulation, and governmentality is a looming presence throughout the nine chapters that comprise this book. In what follows, our authors enlist an array of concepts that are central to these three traditions – among them, statehood and citizenship; political, social, and moral order; population control; the social and the self; public welfare, health, and justice; scientific and expert knowledge; race, ethnicity,

class, and gender; deviance, danger, delinquency, and dependency; compliance, resistance, and transgression – to situate and interpret the manifold historical events to which they bear witness. Along a span of nearly a century and a half – and across a diversity of topics including intermarriage, mental disorder, prohibition, incest, children’s aid, venereal disease, prostitution, and compulsory education – these chapters collectively affirm the power of these ideas to clarify the intricate relations that developed, and continue to exist, between British Columbians and the political, social, and cultural order that surrounds them. In the process, they reveal the boundless potential of the west coast province as a site for such historical expeditions into the terrain of the state, society, the individual, and the law.

Perhaps more importantly, this series of essays demonstrates that the study of social control, moral regulation, and governmentality, both past and present, is necessarily about the lives of the countless women, men, and children who found themselves the subjects of these forces. At the same time as these nine chapters are presented as case studies into the workings of law and other forms of both public and private institutional and cultural control, they are also intrinsically concerned with how ‘ordinary’ British Columbians experienced, interpreted, and challenged the overtures of constituted authority. Public and private modes of control were omnipresent in British Columbia history, but they were not always victorious. Rather than being one-sided narratives of raw, uncontested power, these chapters are testament to the capacity of human beings, under conditions that often defied credulity, to engage their formidable adversaries, to transgress and transcend, and, sometimes, to prevail. It is to these stories that we now turn.

### Notes

- 1 Jean Barman, *The West Beyond the West: A History of British Columbia*, 2nd ed. (Toronto: University of Toronto Press, 1996).
- 2 General readings on British Columbian history include Barman (ibid.); Douglas Cole, ‘The Intellectual and Imaginative Development of British Columbia,’ *Journal of Canadian Studies* 24 (1989): 70-79; Harold Griffin, *Radical Roots: The Shaping of British Columbia* (Vancouver: Broadway, 1999); Hugh J.M. Johnston, ed., *Pacific Province: A History of British Columbia* (Vancouver: Douglas and McIntyre, 1996); Margaret A. Ormsby, *British Columbia: A History* (Toronto: Macmillan, 1958); Martin Robin, *The Rush For Spoils: The Company Province 1871-1933* (Toronto: McClelland and Stewart, 1972); Martin Robin, *Pillars of Profit: The Company Province 1934-1972* (Toronto: McClelland and Stewart, 1973); W. Peter Ward and Robert A.J. McDonald, eds., *British Columbia: Historical Readings* (Vancouver: Douglas and McIntyre, 1981); George Woodcock, *British Columbia: A History of the Province* (Vancouver: Douglas and McIntyre, 1990).
- 3 Stanley Cohen, *Visions of Social Control: Crime, Punishment and Classification* (Cambridge, UK: Polity Press, 1985); Philip Corrigan, ‘On Moral Regulation,’ *Sociological Review* 29 (1981): 313-37; Philip Corrigan and Derek Sayer, *The Great Arch: English State Formation as Cultural Revolution* (Oxford: Basil Blackwell, 1985); Michel Foucault, *The History of Sexuality*, vols. 1, 2, 3 (New York: Viking and Pantheon, 1978, 1985, 1986); David Garland, ‘“Governmentality” and the Problem of Crime,’ in *Governable Places: Readings on Governmentality and Crime Control*, ed. Russell Smandych, 15-43 (Aldershot, UK: Ashgate, 1999); Alan Hunt,

- Governing Morals: A Social History of Moral Regulation* (Cambridge: Cambridge University Press, 1999); Alan Hunt and Gary Wickham, *Foucault and Law: Towards a New Sociology of Law as Governance* (London: Pluto, 1994); Mariana Valverde, *The Age of Light, Soap and Water: Social Purity and Philanthropy in Canada, 1885-1925* (Toronto: McClelland and Stewart, 1991).
- 4 See Hamar Foster and John McLaren, 'Hard Choices and Sharp Edges: The Legal History of British Columbia and the Yukon,' in *Essays in the History of Canadian Law*, vol. 6, *British Columbia and the Yukon*, ed. Hamar Foster and John McLaren, 3-27 (Toronto: Osgoode Society, 1995).
  - 5 See Hamar Foster, 'Law Enforcement in Early British Columbia,' *BC Studies* 65 (1984): 3-28; Foster, "'The Queen's Law is Better Than Yours': International Homicide in Early British Columbia,' in *Essays in the History of Canadian Law*, vol. 5, *Crime and Criminal Justice*, ed. Jim Phillips, Tina Loo, and Susan Lewthwaite, 41-111 (Toronto: Osgoode Society and University of Toronto Press, 1994); Barry Gough, *Gunboat Frontier: British Maritime Authority and Northwest Coast Indians, 1846-1890* (Vancouver: UBC Press, 1984); Mary-Ellen Kelm, 'Women, Families and the Provincial Hospital for the Insane, British Columbia, 1905-1915,' *Journal of Family History* 19 (1994): 177-93; Tina Loo, *Making Law, Order and Authority in British Columbia, 1821-1871* (Toronto: University of Toronto Press, 1994); 'Dan Cramner's Potlatch: Law as Coercion, Symbol and Rhetoric,' *Canadian Historical Review* 73 (1992): 125-65; Indiana Matters, 'Sinned or Sinned against? Historical Aspects of Female Juvenile Delinquency in British Columbia,' in *Not Just Pin Money: Selected Essays in the History of Women's Work in British Columbia*, ed. Barbara K. Latham and Roberta J. Pazdro, 265-77 (Victoria: Camosun College, 1984); Angus McLaren, *Our Own Master Race: Eugenics in Canada, 1884-1945* (Toronto: McClelland and Stewart, 1990); David R. Williams, *The Man For a New Country': Sir Matthew Baillie Begbie* (Sidney: Gray's Publishing, 1977).
  - 6 See generally Foster and McLaren, *Essays in the History of Canadian Law*; Louis Knafla, ed., *Law and Justice in a New Land: Essays in Western Canadian Legal History* (Toronto: Carswell, 1986).
  - 7 Dorothy E. Chunn and Shelley A.M. Gavigan, 'Social Control: Analytical Tool or Analytical Quagmire,' *Contemporary Crises: Crime, Law and Social Change* 12 (1988): 107-24.
  - 8 Ibid.
  - 9 James A. Inciardi, ed., *Radical Criminology: The Coming Crises* (Beverly Hills: Sage, 1980); *The Politics of Law: A Progressive Critique*, ed. David Kairys (New York: Pantheon, 1982); Michael Lynch, ed., *Radical Criminology* (Aldershot: Dartmouth, 1997); Richard Quinney, *Class, State and Crime* (New York: Longman, 1980); Roberto Unger, *The Critical Legal Studies Movement* (Cambridge, MA: Harvard University Press, 1986).
  - 10 Cohen, *Visions of Social Control*, 2.
  - 11 Ibid.
  - 12 Ibid., 1.
  - 13 On this point we depart from Hunt who, in *Governing Morals*, 18-19, rejects 'social control' as devoid of human agency. Despite its admittedly frequent usage in structuralist accounts, we see nothing inherently or irreversibly static, reifying, or dehumanizing about the social control concept.
  - 14 See Carolyn Strange and Tina Loo, *Law and Moral Regulation in Canada, 1867-1939* (Toronto: University of Toronto Press, 1997), 5.
  - 15 Ibid.
  - 16 See Michel Foucault, *The Birth of the Clinic: An Archaeology of Medical Perception* (New York: Vintage, 1973); *Madness and Civilization: A History of Insanity in the Age of Reason* (New York: Vintage, 1975); *Discipline and Punish: The Birth of the Prison* (London: Pantheon, 1977); *The History of Sexuality*, vol. 1.
  - 17 Hunt, *Governing Morals*, 5.
  - 18 Corrigan, 'On Moral Regulation.'
  - 19 Nancy K. Bristow, *Making Men Moral: Social Engineering during the Great War* (New York: New York University Press, 1996); Stanley Cohen, *Folk Devils and Moral Panics: The Creation of the Mods and Rockers* (London: MacGibbon and Kee, 1972); Troy Duster, *The Legislation of Morality: Law, Drugs, and Moral Judgment* (New York: Free Press, 1990); Mark Fishman, *Manufacturing the News* (Austin: University of Texas Press, 1980); Erich Goode and Nachman Ben-Yehuda,

- Moral Panics: The Social Construction of Deviance* (Oxford: Blackwell, 1994); Stuart Hall et al., *Policing the Crisis: Mugging, the State, and Law and Order* (London: Macmillan, 1978).
- 20 Walter L. Adamson, *Hegemony and Revolution: A Study of Antonio Gramsci's Political and Cultural Theory* (Berkeley: University of California Press, 1980); Robert Boccock, *Hegemony* (London: Tavistock, 1986).
  - 21 Corrigan and Sayer, *The Great Arch*, 4.
  - 22 Hunt, *Governing Morals*, 12-18.
  - 23 Mitchell Dean, *The Constitution of Poverty: Toward a Genealogy of Liberal Governance* (London: Routledge, 1991); Dean, "A Social Structure of Many Souls": Moral Regulation, Government, and Self-Formation,' *Canadian Journal of Sociology* 19 (1994): 145-68.
  - 24 Hunt, *Governing Morals*, 15.
  - 25 Ibid.
  - 26 Ibid., 2.
  - 27 Michel Foucault, 'The Concern For Truth,' in *Foucault Live: Interviews 1966-1984*, ed. Sylvère Lotinger, 293-308 (New York: Semiotext(e), 1989), 296.
  - 28 Graham Burchell, Colin Gordon, and Peter Miller, eds., *The Foucault Effect: Studies in Governmentality* (Chicago: University of Chicago Press, 1991).
  - 29 Hunt, *Governing Morals*, 9,13.
  - 30 Michel Foucault, 'Governmentality,' in *The Foucault Effect*, ed. Burchell, Gordon, and Miller, 87-104, 101.
  - 31 David Garland, *Punishment and Welfare: A History of Penal Strategies* (Aldershot, UK: Gower, 1985).
  - 32 Kevin Stenson, 'Crime Control, Governmentality and Sovereignty,' in *Governable Places*, ed. Smandych, 45-73, 47.
  - 33 Michel Foucault, 'The Subject and Power,' in *Michel Foucault: Beyond Structuralism and Hermeneutics*, ed. Herbert Dreyfus and Paul Rabinow, 208-26 (Chicago: University of Chicago Press, 1982), 221.
  - 34 Foucault, 'Governmentality,' 87.
  - 35 Zygmunt Bauman, *Intimations of Postmodernity* (London: Routledge, 1992), 201.
  - 36 Norbert Elias, *The Civilizing Process*, vol. 1: *The History of Manners*, vol. 2: *State Formation and Civilization* (Oxford: Basil Blackwell, 1978, 1982).
  - 37 Garland, "'Governmentality" and the Problem of Crime,' 15. See also Burchell, Gordon, and Miller, *The Foucault Effect*; Nikolas Rose, *Governing the Soul: The Shaping of the Private Self* (London: Routledge, 1989); Nikolas Rose and Peter Miller, 'Political Power Beyond the State: Problematics of Government,' *British Journal of Sociology* 43 (1992): 173-205.
  - 38 Ibid.
  - 39 Hunt, *Governing Morals*, 6.
  - 40 Stenson, 'Crime Control, Governmentality and Sovereignty,' 46.
  - 41 Hunt, *Governing Morals*, 5.
  - 42 Strange and Loo, *Law and Moral Regulation in Canada, 1867-1939*, 7. The authors refer to the substitution of the 'net' of moral regulation – restrictive, yet full of holes – for the 'hammer' of social control.
  - 43 Roy Porter, *Mind-Forg'd Manacles: A History of Madness in England from the Restoration to the Asylum* (London: Athlone Press, 1987) 9, suggests in relation to Foucault's work on the asylum that his approach 'seems to project French ideology on the rest of the Continent.'
  - 44 See Edward J. Bristow, *Vice and Vigilance: Purity Movements in Britain since 1700* (Dublin: Gill and MacMillan, 1977); Mariana Valverde, *The Age of Soap, Light and Water*; Paul S. Boyer, *Urban Masses and Moral Order in America, 1820-1920* (Cambridge, MA: Harvard University Press, 1978); David J. Pivar, *Purity Crusade, Sexual Morality and Social Control, 1868-1900* (Westport, CT: Greenwood Press, 1973); Mark T. Connelly, *The Response to Prostitution in the Progressive Era* (Chapel Hill: University of North Carolina, 1980); Michael Ignatieff, *A Just Measure of Pain: The Penitentiary in the Industrial Revolution, 1750-1850* (Harmondsworth: Penguin, 1989); David J. Rothman, *Conscience and Convenience: The Asylum and its Alternatives in Progressive America* (Boston: Little, Brown, 1980); Andrew Scull, *Museums of Madness: The Social Organization of Insanity in Nineteenth-Century England* (Harmondsworth: Penguin, 1982).

- 45 See Carol Lee Bacchi, *Liberation Deferred: The Ideas of English Canadian Suffragists, 1877-1915* (Toronto: University of Toronto, 1983); Constance Backhouse, *Petticoats and Prejudice: Women and the Law in Nineteenth Century Canada* (Toronto: Osgoode Society, 1991), 228-59; John D'Emilio and Estelle B. Freedman, *Intimate Matters: A History of Sexuality in America* (New York: Harper and Row, 1988), 137-67; Judith Walkowitz, *Prostitution and Victorian Society: Women, Class and the State* (Cambridge: Cambridge University Press, 1980).
- 46 Foucault, *Discipline and Punish*, 13.
- 47 *Ibid.*, 213-14.
- 48 *Ibid.*, 215.
- 49 Clive Emsley, *The English Police: A Political and Social History* (Hemel Hempstead: Harvester Wheatsheaf, 1991), 20-21.
- 50 See Robert Storch, 'Policing Rural Southern England before the Police: Opinion and Practice, 1830-1856,' in *Policing and Prosecution in Britain 1750-1850*, ed. Douglas Hay and Francis Snyder, 259-64 (Oxford: Clarendon, 1989), 211.
- 51 See John McLaren and John Lowman, 'Enforcing Canada's Prostitution Laws, 1892-1920: Rhetoric and Practice,' in *Securing Compliance: Seven Case Studies*, ed. Martin Friedland, 21-87 (Toronto: University of Toronto Press, 1990).
- 52 Roy Porter, for example, argues in *Mind Forg'd Manacles* that whatever the case in France, he doubts whether Britain could be classed as a 'psychiatric society' or even as a 'therapeutic state,' even as late as 1900. See note 43 above.