

Pandemic Schooling and the Politics of Safety

Lisa M Kelly,* *Deniz Kilinc*,** *Sonia Lawrence**** &
*Cosimo Morin*****

In this paper, the authors consider how pandemic schooling is increasing educational inequalities that may have generational effects. Reviewing emerging evidence on rates of return to in-person schooling and disparities in remote learning in Ontario, the authors argue that the pandemic is accelerating existing trends of privatization and choice. Emerging data suggests that students from more affluent and whiter households have returned to in-person learning at higher rates than their lower-income and racialized peers. When families with more resources have opted for remote learning, they have been better able to supplement online lessons. For numerous reasons, including higher rates of local COVID-19 spread, fears of infection in multi-generational households, and mistrust in public schools, racialized and less affluent families are opting for remote learning at higher rates without the necessary supports. This paper situates these constrained family “choices” in a longer trajectory of school safety laws and policies that have borne down unevenly on racialized students, poorer students, and students with disabilities. School safety mandates in Ontario and elsewhere have transformed modern student life through zero-tolerance discipline policies, enhanced school surveillance, and the rapid expansion of school resource officer (SRO) programs. In so doing, these laws and policies have often worked to under-protect and over-punish the most vulnerable students. The authors argue that in a time of pandemic and racial reckoning, families are making decisions about schooling in the shadow of this history.

* Assistant Professor, Queen’s University, Faculty of Law. We thank Sharry Aiken, Nicholas Bala, Afroditi Giovanopoulou, Colin Grey, Gail Henderson, Joshua Karton, Cherie Metcalf, Zinaida Miller, Karlan Modeste, Grégoire Webber, Noah Weisbord, and Ashwini Vasanthakumar for helpful comments and discussions. We benefited greatly from feedback at the Queen’s Law Faculty Workshop. Pardeep Kaur provided excellent research assistance. Lisa Kelly acknowledges funding support from the Social Sciences and Humanities Research Council, and thanks the Centre for Feminist Legal Studies Writing Group for providing inspiration, connection, and the space to write.

** JD candidate 2021 (Queen’s).

*** Associate Professor, York University, Osgoode Hall Law School.

**** JD candidate 2021 (Queen’s).

Copyright © 2021 by Lisa M Kelly, Deniz Kilinc, Sonia Lawrence & Cosimo Morin

Introduction

I. The Politics of Safety

II. Pandemic Schooling

Conclusion

Introduction

In this time of pandemic, few institutions have proven as essential or precarious as public schools. After the World Health Organization declared the coronavirus outbreak a global pandemic in March 2020, schools across Canada closed for in-person learning.¹ A few weeks later, the provinces and school districts lurched toward remote learning.² Parents and families scrambled to find childcare while also attempting to navigate virtual learning. Women working in the formal and informal economies performed ever more “reproductive labour”—the essential work of raising children, cooking, cleaning, laundering, grocery shopping, and now supervising online schooling—which capitalist economies tend to neither acknowledge nor compensate.³

As the pandemic scythed its way through care homes, prisons, and communities of colour, another political scene of death unfolded. An eight-

1. See “Coronavirus: What’s Happening in Canada and Around the World March 31”, *CBC News* (31 March 2020), online: <www.cbc.ca/news/canada/coronavirus-covid19-march31-canada-world-1.5514497>.

2. On March 12, 2020, Ontario’s Minister of Education, the Honourable Stephen Lecce, issued a Ministerial Order to close all publicly funded schools in Ontario for two weeks following the ordinarily scheduled March break holiday. The Order was originally scheduled to last from March 14, 2020 through to April 5, 2020, but was extended repeatedly until the end of the regularly scheduled school year. See “Statement from Premier Ford, Minister Elliott, and Minister Lecce on the 2019 Novel Coronavirus (COVID-19)” (12 March 2020), online: *Ontario* <news.ontario.ca/en/statement/56270/title>; *Order in Council 517/2020, 517/2020 (Education Act)*; *Order in Council 576/2020, 576/2020 (Education Act)*; *Order in Council 673/2020, 673/2020 (Education Act)*; *Order in Council 790/2020, 790/2020 (Education Act)*. At the end of March 2020, the province announced a return to “teacher-led learning” to start on April 6, 2020. See Ministry of Education, “Letter to Ontario’s Parents from the Minister of Education” (31 March 2020), online: *Ontario* <www.ontario.ca/page/letter-ontarios-parents-minister-education>.

3. For socialist feminist theorizing and activism around reproductive labour, see e.g. Silvia Federici, *Revolution at Point Zero: Housework, Reproduction, and Feminist Struggle* (Oakland, CA: PM Press, 2012); Selma James, “Wageless of the World (1975)” in Selma James, ed, *Sex, Race, and Class—The Perspective of Winning: A Selection of Writings 1952-2011* (Oakland, CA: PM Press, 2012) 102. See also Tithi Bhattacharya, ed, *Social Reproduction Theory: Remapping Class, Recentring Oppression* (London, UK: Pluto Press, 2017).

minute and forty-six second recording seized the attention of a world locked down. The slow killing of George Floyd by Minneapolis police officers played out on television and computer screens in a seemingly endless loop, continuing a centuries-old tradition of treating Black suffering as spectacle.⁴ The state had proven itself unable to protect its citizenry from a virus while still capable of inflicting violence on Black and Brown people. In Canada, similar images and deaths confirmed what Indigenous and Black peoples have known and resisted for generations. In June, a video circulated of an RCMP officer punching and tackling Athabasca Chipewyan First Nation Chief Allan Adam to the ground in an encounter over an expired license plate tag.⁵ Protests erupted across North America and globally as a necessary means of political expression against state and civil society failures to combat systemic racism. As Keeanga-Yamahtta Taylor wrote at the time, “[t]his simultaneous collapse of politics and governance has forced people to take to the streets — to the detriment of their health and the health of others — to demand the most basic necessities of life, including the right to be free of police harassment or murder.”⁶

These two moments of pandemic precarity and racial reckoning have converged in debates and decisions about “school safety”. The question of whether and how schools should reopen has been one of the most contentious policy debates of the pandemic. Concerns about school safety have also magnified racial and class divides that long predated this crisis. Despite the oversized media attention that families in whiter, more affluent communities have received, it is Indigenous, Black, racialized, and working class families that have deeper and longer experiences of distrusting that schools would do right by their children.⁷ Much of this concern attaches to the very idea of “school safety” in contemporary law and policy. Long before the current public

4. See e.g. Amy Louise Wood, *Lynching and Spectacle: Witnessing Racial Violence in America, 1890-1940* (Chapel Hill: University of North Carolina Press, 2009); James Allen et al, *Without Sanctuary: Lynching Photography in America* (Santa Fe: Twin Palms, 2000); Dora Apel, *Imagery of Lynching: Black Men, White Women, and the Mob* (New Brunswick, NJ: Rutgers University Press, 2004).

5. See Brandi Morin, “I Wonder Who Will March with Indigenous Peoples?”, *Canada’s National Observer* (8 June 2020), online: <www.nationalobserver.com/2020/06/08/opinion/i-wonder-who-will-march-indigenous-peoples>.

6. Keeanga-Yamahtta Taylor, “Of Course There Are Protests. The State Is Failing Black People”, *The New York Times* (29 May 2020), online: <www.nytimes.com/2020/05/29/opinion/george-floyd-minneapolis.html>.

7. See Emily Milne, “‘I Have the Worst Fear of Teachers’: Moments of Inclusion and Exclusion in Family/School Relationships Among Indigenous Families in Southern Ontario” (2016) 53:3 *Can Rev Sociology* 270 (empirical study finding distrust amongst Indigenous families with children in public schools in Ontario with different responses and engagement by Indigenous parents along lines of socioeconomic class); Emily Milne & Terry Wotherspoon, “Schools as

health threat, lawmakers and courts treated schools as unsafe places in need of heightened security and surveillance. From zero-tolerance discipline policies to enhanced school surveillance to the rapid expansion of school resource officer (SRO) programs, school safety mandates have transformed modern student life. In so doing, they have borne down unevenly and unequally on lower-income students, students of colour, Indigenous students, and students with disabilities. In an age of austerity in which governments have cut school funding and reduced social services, the promise of safety for *some* students has often been premised on the punishment and exclusion of *other* students.

In this paper, we consider how inequalities in pandemic schooling are producing learning gaps that may have lasting impacts. Emerging data suggests that students from more affluent and whiter demographics have returned to in-person learning at higher rates than their lower-income and racialized peers. When families with more resources have opted for remote learning, they have been able to supplement online lessons with technological knowhow and social engagement through private “learning pods”. More marginalized families are making different safety calculations. For a number of reasons including higher rates of local COVID-19 spread, fears of infection in multi-generational homes, and longstanding mistrust in public schools, they are opting for remote learning at higher rates without the necessary supports. This paper situates these constrained family “choices” in the longer trajectory of school safety laws and policies in Ontario that have borne down unevenly on Black and Indigenous students, poorer students, racialized students, and students with disabilities. The most vulnerable students have often been under-protected and over-policed.

We conclude by asking what a just remembering of this pandemic might entail. Reflecting on the largely forgotten influenza pandemic of 1918, we urge a present acknowledgement of educational injustices that may reach far into the future. To remember is necessary if we are to imagine a public education system that would more democratically meet the needs of all students.

‘Really Dangerous Places’ for Indigenous Children and Youth: Schools, Child Welfare, and Contemporary Challenges to Reconciliation” (2020) 57:1 *Can Rev Sociology* 34 (empirical study with Indigenous parents in Alberta finding that the dual obligations of schools to fulfill educational and state child welfare obligations make schools “dangerous places” to many Indigenous families at 34). For discussion of Black experiences of systemic and institutional racism in the American schooling context and the impact on trust and advocacy by Black parents, see Camille W Cooper, “The Detrimental Impact of Teacher Bias: Lessons Learned from the Standpoint of African American Mothers” (2003) 30:2 *Teacher Education Q* 101; KathrynB Hill, *Black Parents, Vigilance and Public Schools: Trust, Distrust and the Relationships Between Parents and Schools in New York City* (PhD Dissertation, Columbia University, 2018) [unpublished].

I. The Politics of Safety

Public performances of solidarity, grateful acknowledgments of healthcare workers, and ubiquitous calls that “we are all in this together” marked the early days of the Coronavirus pandemic. (Many people also stockpiled toilet paper.) As the spring wore on, however, and the initial shock of closures and shutdowns wore off, it became evident that the burdens of COVID-19 were being borne unequally. The pandemic data confirmed what social epidemiologists would have predicted: poorer people, those unable to take paid sick days, Black and Indigenous peoples, racialized people, those living in densely populated areas, incarcerated people, frontline workers, and residents and staff in congregate living facilities were at greatest risk of infection. While the pandemic’s devastating first wave in New York City attracted global attention, far fewer noticed when the Navajo Nation later surpassed New York with the highest COVID-19 rates in the United States.⁸ At the time of writing, the rate of reported COVID-19 cases amongst First Nations peoples living on reserves is seventy-four per cent higher than the general Canadian population.⁹ Rates of infection in federal prisons, in which Black and Indigenous peoples are vastly over-represented, are up to nine times that of the general population.¹⁰ In the City of Toronto, by the end of 2020, more than three-quarters of people with reported COVID-19 cases identified as racialized, despite racialized persons making up only a little over half of Toronto’s population.¹¹ Likewise, people living in households considered lower-income represent almost half of all COVID-19 infections in Toronto, despite making up only thirty per cent of the city’s population.¹² The pandemic has burdened those most whose backs were already against the wall.

Amongst the millions of working class people laid off in the first wave of pandemic closures was forty-eight-year-old George Floyd. Floyd had been working at a Minneapolis restaurant before the stay-at-home orders left him without a job. On May 25, 2020, a world shut down watched a video filmed

8. See Hollie Silverman et al, “Navajo Nation Surpasses New York State for the Highest Covid-19 Infection Rate in the US”, *CNN* (18 May 2020), online: <www.cnn.com/2020/05/18/us/navajo-nation-infection-rate-trnd/index.html>.

9. See “Confirmed Cases of Covid-19” (last modified 12 March 2021), online: *Government of Canada* <www.sac-isc.gc.ca/eng/1598625105013/1598625167707>.

10. See Valérie Ouellet & Joseph Loiero, “COVID-19 Taking a Toll in Prisons, with High Infection Rates, CBC News Analysis Shows”, *CBC News* (17 July 2020), online: <www.cbc.ca/news/canada/prisons-jails-inmates-covid-19-1.5652470?cmp=rss>.

11. See “Covid-19: Status of Cases in Toronto” (last visited 13 March 2021), online: *Toronto* <www.toronto.ca/home/covid-19/covid-19-latest-city-of-toronto-news/covid-19-status-of-cases-in-toronto/>.

12. See *ibid.*

by a seventeen-year-old high school student. The footage—now the most viewed video of police brutality in history—showed a Minneapolis police officer kneeling on Floyd’s neck for over eight minutes until he died. The reason for the police call: Floyd had allegedly passed a counterfeit twenty-dollar bill to pay for cigarettes. People poured into the streets. Although a brutal act of bodily violence sparked the protests, activists immediately decried more systemic, less visibly jarring forms of police power, what sociologist Monica Bell has described as of “the structural and symbolic variety”.¹³ One of the institutions to which parents, community members, and students immediately turned their attention were public schools and the police officers walking their halls.

Within days of Floyd’s murder, school boards across North America faced renewed calls to sever ties with police services and disband SRO programs. The Minneapolis Public School Board voted unanimously to end its decades-long SRO program within a week of Floyd’s death.¹⁴ Other boards and cities soon followed suit, including Portland, Denver, and some schools in Chicago.¹⁵ North of the border, similar debates erupted. Already in 2017, the Toronto District School Board (TDSB) had voted to end its SRO program after advocates and parents argued for years that the program targeted students of colour and made schools less safe for Black students, undocumented students, and students with disabilities.¹⁶ In the summer of 2020, these calls reverberated across the country. In the fall of 2020, the Edmonton School Board announced that it was suspending its SRO program for the school year. Likewise, the Peel Regional Police in the western Greater Toronto Area announced in the fall of 2020 that they were permanently ending their school program.¹⁷ At the time of writing, students and community members are raising similar calls in

13. Monica C Bell, “The Many Forms of Police Violence” (8 June 2020), online: *The Law and Political Economy Project* <lpeproject.org/blog/the-many-forms-of-police-violence>. See also Monica C Bell, “Anti-Segregation Policing” (2020) 95:3 NYUL Rev 650.

14. See Lois Beckett, “Minneapolis Public School Board Votes to Terminate its Contract with Police”, *The Guardian* (3 June 2020), online: <www.theguardian.com/us-news/2020/jun/01/minneapolis-public-school-end-police-contract>.

15. See Lauren Camera, “The End of Police Schools”, *US News & World Report* (12 June 2020), online: <www.usnews.com/news/the-report/articles/2020-06-12/schools-districts-end-contracts-with-police-amid-ongoing-protests>.

16. See Shanifa Nasser, “Canada’s Largest School Board Votes to End Armed Police Presence in Schools”, *CBC News* (22 November 2017), online: <www.cbc.ca/news/canada/toronto/school-resource-officers-toronto-board-police-1.4415064>.

17. See Steven Dyer, “Public School Board Will Not Reopen Resource Officer Debate”, *CTV News* (30 June 2020), online: <edmonton.ctvnews.ca/public-school-board-will-not-reopen-resource-officer-debate-1.5006838>.

Vancouver, Winnipeg, and Ottawa.¹⁸ In the words of Grace Ayoo, co-founder of the Asilu Collective, students often feel like “a prisoner in [their] own school”.¹⁹

School policing proliferated in recent decades as part of a larger wave of laws and policies aimed at making schools safer. For decades, school safety has been a central preoccupation of lawmakers, courts, school boards, and the public at large. This is true in Ontario as elsewhere. As Robert Gidney writes in his history of schooling in Ontario, school safety came to dominate public debates over education by the 1980s and 1990s. National media coverage of serious incidents of school-based violence sparked fears among families, police, lawmakers, and school officials.²⁰ In 1993, Ontario’s Royal Commission on Learning observed that “[t]he problem of violence in the schools has been raised at our hearings more than any other issue”.²¹

At a time when governments were cutting budgets for education and social services, school safety quickly became synonymous with punishment rather than support. In Ontario, under Premier Mike Harris, the Progressive Conservative Party campaigned in 1999 on the promise of “zero tolerance” for bad behaviour in Ontario public schools.²² The term “zero tolerance” was deployed by the US Reagan administration in the 1980s as part of its War on Drugs, and by the 1990s the enforcement logic had spread to other spheres including schools.²³ Channeling—and creating—“common sense” desires for safety in schools, the Harris government introduced the *Safe Schools Act* in 2001. It revised Ontario’s *Education Act* to add new disciplinary infractions, enlarge the disciplinary power of teachers and principals, and mandate suspensions or expulsions for

18. See “Peel Regional Police to Pull Resource Officers Out of Schools Permanently”, *CBC News* (18 November 2020), online: <www.cbc.ca/news/canada/toronto/peel-police-resource-officer-program-cancelled-1.5807706>.

19. Jacquie Miller, “‘Prisoner in Your Own School’: Movement Afoot to Remove Community Police Officers in Several Ottawa Schools Boards”, *Ottawa Citizen* (4 December 2020), online: <ottawacitizen.com/news/local-news/police-in-schools-2>.

20. See RD Gidney, *From Hope to Harris: The Reshaping of Ontario’s Schools* (Toronto: University of Toronto Press, 1999) at 180–81.

21. *Ibid* at 181.

22. See Richard Mackie, “Harris Cracks Down on Student Misconduct: Code Features Automatic Suspensions, Expulsions”, *The Globe and Mail* (21 March 2000), online: <www.theglobeandmail.com/news/national/harris-cracks-down-on-student-misconduct/article1037991>.

23. See Henry A Giroux, “Racial Injustice and Disposable Youth in the Age of Zero Tolerance” (2003) 16:4 *Intl J of Qualitative Studies in Education* 553 at 557. See also Jonathan Simon, *Governing Through Crime: How the War on Crime Transformed American Democracy and Created a Culture of Fear* (New York: Oxford University Press, 2007).

certain breaches of school rules.²⁴ Education Minister Janet Ecker said at the time: “I am sure every member would agree that students, teachers, staff, and parents have the right to be safe and to feel safe in their schools.”²⁵ School safety was sold as a universal right.

Treating safety as synonymous with punishment created new dangers. While many supporters heralded the *Safe Schools Act*, others raised early concerns about the social and educational consequences for the many students who would be suspended and expelled under its provisions.²⁶ They were concerned—among other things—about the likelihood of racially disparate impacts due to direct and systemic racism. In 2005, the Ontario Human Rights Commission initiated a complaint against the TDSB and the Ministry of Education alleging that the disciplinary provisions of the *Safe Schools Act*, in particular the zero-tolerance mandates, were being wielded disproportionately against racialized students and students with disabilities.²⁷ Within two years, both complaints had settled. The Ministry and the TDSB acknowledged the “widespread perception that the application of the zero tolerance provisions in the *Education Act* had a disproportionate impact on students from racialized communities and students with disabilities and can further exacerbate their already disadvantaged position in society”.²⁸ The settlement also committed the TDSB and the Ministry to a new “progressive discipline” approach that aimed to avoid suspensions or expulsions.²⁹ Despite this, data collected in recent years by the TDSB and York University Professor Carl James has found that a staggering forty-two per cent of all Black students in the TDSB have been suspended at least once by the time they finish high school.³⁰

24. See *Safe Schools Act, 2000*, SO 2000, c 12, ss 309 (1)–(22) (mandatory expulsion), ss 306 (1)–(13) (mandatory suspension).

25. Ontario, Legislative Assembly, *Official Report of Debates (Hansard)*, 37-1, No 64 (31 May 2000) at 3305 (Hon Janet Ecker).

26. See Yvette Daniel & Karla Bondy, “Safe Schools and Zero Tolerance: Policy, Program and Practice in Ontario” (2008) 70 *Can J Educational Administration and Policy* 1 at 5.

27. See “Human Rights Settlement Reached with Ministry of Education on Safe Schools – Terms of Settlement” (last visited 13 March 2021), online: *Ontario Human Rights Commission* <www.ohrc.on.ca/en/human-rights-settlement-reached-ministry-education-safe-schools-terms-settlement>.

28. *Ibid.*

29. *Ibid.*

30. See Carl James & Tana Turner, “Towards Race Equity in Education: The Schooling of Black Students in the Greater Toronto Area” (2017) at 35, online (pdf): *York University* <edu.yorku.ca/files/2017/04/Towards-Race-Equity-in-Education-April-2017.pdf>. See also “Enhancing Equity Task Force - Report and Recommendation” (2017) at 24, online (pdf): *Toronto District School Board* <www.tdsb.on.ca/Portals/0/community/docs/EETFReportPdfVersion.pdf>.

In a time of pandemic, families and communities are making decisions in the shadow of these collective experiences with the issue of school safety upon which all eyes are now fixed. Long before the pandemic, promises of school safety had left the most vulnerable students under-protected and over-punished. Just as the risk of COVID-19 infection at school is today a function of transmission in the surrounding community, so too the student populations most at risk of violence have been most subject to punishment.

II. Pandemic Schooling

As the long days of the pandemic summer of 2020 wore on, school reopening plans became political lightning rods for parents, politicians, and teachers' unions. Media accounts of summer camps turned super spreader events stoked fears that reopening schools would fuel community spread and place children and the rest of the population at greater risk.³¹ At the same time, public health and education officials warned that continued closures would negatively affect children's mental health and aggravate inequalities in education. Clinicians and scientists at Sick Kids Hospital in Toronto insisted that "school closures for in-person instruction should be a last resort for pandemic control" and cautioned that "[a]dditional delays will inevitably further exacerbate the harms to children and the inequities caused by school closures".³² Canadian researchers estimated that the educational skills gap between students from lower-income versus higher-income households could grow by more than thirty per cent based on the spring closure and summer break alone.³³ Other commentators warned that some students, especially those whose parents and guardians were not home during school hours and who lacked the requisite technology, might be pushed out of secondary school altogether.³⁴ Students from working class and often racialized households were likely to lose the most when cut off from the educational, social, and nutritional supports of in-person schooling.

31. See e.g. US, Centers for Disease Control and Prevention, *SARS-CoV-2 Transmission and Infection Among Attendees of an Overnight Camp — Georgia, June 2020* (Morbidity and Mortality Weekly Report, vol 69, no 7 August 2020) 1023, online (pdf): <www.cdc.gov/mmwr/volumes/69/wr/pdfs/mm6931e1-H.pdf>.

32. Michelle Science et al, "COVID-19: Guidance for School Operation During the Pandemic" (21 January 2021) at 2, online (pdf): *SickKids* <www.sickkids.ca/siteassets/news/news-archive/2021/covid19-guidance-for-school-operation-sickkids.pdf>.

33. See Catherine Haeck & Pierre Lefebvre, "Pandemic School Closures May Increase Inequality in Test Scores" (2020) 46:1 *Can Pub Pol'y* 82 at 84.

34. See Jessica Wong, "Disrupted Schooling, Learning Loss Will Have Effects Long After Pandemic, Say Education Experts", *CBC News* (31 January 2021), online: <www.cbc.ca/news/pandemic-learning-gap-unesco-report-1.5888860>.

With infection rates still rising, the Ontario government announced that it would adopt a hybrid model for the fall that allowed parents to choose whether their child would return to in-person learning or continue remotely. Available evidence about family choices reveals a troubling pattern. Higher-income and whiter families have chosen to return to in-person learning in greater numbers than their working class and racialized counterparts. In New York City, which has the largest school system in the US, 12,000 more white students than Black students returned to in-person learning, despite the fact that Black students make up a much larger share of the district population.³⁵ The executive director of the Alliance for Quality Education, a New York coalition that works to secure high-quality public education for all students, attributed the disparities to mistrust. “When communities have been systemically dis-invested in and neglected, at a time where there’s a global crisis and a pandemic, it’s really hard for parents to say I’m going to trust this institution now to keep my child safe.”³⁶ In Chicago, white students chose in-person learning at higher rates than any other racial group and were more likely to attend school in the opening week than their Black, Latino, and Asian peers.³⁷ A national American survey on school choice during the pandemic found that low-income Black and Latino students were much more likely to be learning fully remotely compared to higher-income white children. The survey also found that children enrolled in private schools were more likely to be attending in-person than their public-school counterparts.³⁸

Available evidence in Ontario suggests similar trends. In June 2020, the TDSB sent a survey to all its students, parents, guardians, and staff. Parents with more formal education and higher levels of income were significantly overrepresented among the respondents.³⁹ Amongst these families, two-thirds

35. See Eliza Shapiro “12,000 More White Children Return to N.Y.C. Schools Than Black Children”, *The New York Times* (8 December 2020), online: <www.nytimes.com/2020/12/08/nyregion/ny-schools-reopening-inequality.html>.

36. Samantha Fields, “Black Students Most Likely to Be Going to School Remotely” (17 November 2020), online: *Marketplace* <www.marketplace.org/2020/11/17/black-students-most-likely-to-be-going-to-school-remotely>.

37. See Hannah Leone, “10,000 CPS Students Who Chose In-Person Classes Later Opted Out; Racial Disparities Seen in Attendance Rates”, *Chicago Tribune* (28 January 2021), online: <www.chicagotribune.com/coronavirus/ct-covid-19-cps-reopening-attendance-20210128-yb62lomqdrfppxzbwfskwabm-story.html>.

38. See Michael B Henderson, Martin R West & Paul E Peterson, “Pandemic Parent Survey Finds Perverse Pattern: Students Are More Likely to Be Attending School in Person Where Covid Is Spreading More Rapidly” (2020), online: *Education Next* <www.educationnext.org/pandemic-parent-survey-finds-perverse-pattern-students-more-likely-to-be-attending-school-in-person-where-covid-is-spreading-more-rapidly/>.

39. See “TDSB Return To School Surveys: Parents, Students & Staff” (22 July 2020) at 1,

of parents indicated they were likely to send their children back to school.⁴⁰ These numbers dropped, however, in areas with less affluent demographic profiles. For example, only 38% of families surveyed by Thorncliffe Park Public School, a school located in a community with a high immigrant population and a median household income of \$46,000, reported that they planned to enroll in in-person learning.⁴¹ In the more affluent Windemere and Beaches neighborhoods, this number jumped to nearly 80%.⁴²

A similar dynamic has unfolded across some Indigenous communities. Community leaders have cited inadequate federal funding and concerns about containing an outbreak as reasons for shuttering schools altogether. In Northern communities, many teachers fly in from the South, fueling concerns that they will bring the virus with them. In the fall, Nishnawbe Aski Nation Deputy Grand Chief, Derek Fox, expressed fears about reopening schools given the limited health resources in his community and the prevalence of existing health conditions that would make a COVID-19 outbreak dire.⁴³ Likewise, many of the largest northern First Nations communities in Saskatchewan had to close their schools throughout the fall because of their limited capacity to contain an outbreak. The Chief of Peter Ballantyne Cree Nation, Peter Beatty, stated: “[i]t was not an easy decision, but there’s a safety concern for parents and teachers and everyone”.⁴⁴ Beatty noted that although families and teachers were trying their best, online learning is especially difficult in remote areas due to poor internet service and technological limitations.⁴⁵

online (pdf): *Toronto District School Board* <www.tdsb.on.ca/Portals/0/docs/TDSB%20Return%20to%20School%20Survey_Final%20Summary%20with%20Qualitative%20Comments_Jul____.pdf>.

40. See *ibid* at 3. Note that the published findings state that race-based data is forthcoming but that it is yet to be released.

41. See Dakshana Bascaramurty & Caroline Alphonso, “How Race, Income and ‘Opportunity Hoarding’ Will Shape Canada’s Back-to-School Season”, *The Globe and Mail* (5 September 2020), online: <www.theglobeandmail.com/canada/article-how-race-income-and-opportunity-hoarding-will-shape-canadas-back>.

42. See Mahnoor Yawar & Mark Mcallister, “Families Hesitate to Send Kids to School in Areas Deemed High Risk for COVID-19”, *CityNews* (6 September 2020), online: <toronto.citynews.ca/2020/09/08/high-risk-neighbourhoods-schools>.

43. See “First Nations Communities ‘Extremely Concerned’ Over Reopening of Schools”, *CBC News* (17 August 2020), online: <www.cbc.ca/news/canada/thunder-bay/indigenous-school-reopening-1.5711064>.

44. Jason Warick, “More Than 20 Sask First Nations Schools Closed Due to COVID-19 Fears”, *CBC News* (30 October 2020), online: <www.cbc.ca/news/canada/saskatoon/more-than-20-sask-first-nations-schools-closed-due-to-covid-19-fears-1.5782978>.

45. See *ibid*.

All signs point to profound inequalities in the experience of remote learning. In the case of families in whiter, higher-income demographics who have opted for online school, many have been able to use their comparative advantage to supplement their children's education. For some, this has meant giving their children "school-like" experiences by forming "learning pods".⁴⁶ Some of these pods have operated as co-operatives where a small group of students completed their assigned classwork together under the rotating supervision of parents. Other pods have followed more privatized models where parents opt out of the formal school system altogether or supplemented their children's online schoolwork with private in-person instruction and guidance.⁴⁷ Start-up companies have sprung into action to meet the new market demand. From the start of the pandemic, Facebook pages for learning pods in the US and Canada quickly amassed tens of thousands of members.⁴⁸ The director of the US-based Center for Education Policy at the Heritage Foundation, which advocates for school choice policies that allow public funds to follow students to private and alternative schools, lauded these initiatives as "civil society in action".⁴⁹ Already some school choice writers are looking ahead to consider how private pods might be made more accessible after the pandemic.⁵⁰

Often without these private options, working class and racialized families have been left with impossible choices. For some, the "choice" has proven none at all. A community representative active in the Thorncliffe area noted that despite fears of contagion at school, "[s]ome parents, they both work and they can't afford babysitting or child care. That's why their kids go to school."⁵¹ For others, the "choice" has presented as a classic catch-22. Should families return children to a school system that may have lost their trust long before the pandemic, or should they attempt to navigate remote learning with all its material, social, and educational

46. Paige MacPherson, "MacPherson: Cut the Red Tape Around Pandemic Learning Pods", *Toronto Sun* (18 September 2020), online: <torontosun.com/opinion/columnists/macpherson-cut-the-red-tape-around-pandemic-learning-pods>.

47. See *ibid.*

48. See Beth Macdonell, "Private Learning Pods Sprout Across GTA to Support Students in Virtual Schools", *CTV News* (27 October 2020), online: <toronto.ctvnews.ca/private-learning-pods-sprout-across-gta-to-support-students-in-virtual-schools-1.5163601?cache=geqlhfyrmsffe>. Learning Pods-Canada is a Toronto-based Facebook group with more than 11,000 members and acts as a sort of student-teacher match-up community.

49. Lindsey M Burke, "Educating During a Pandemic: More About Learning Pods and ESAs" (22 September 2020), online: *The Heritage Foundation* <www.heritage.org/education/commentary/educating-during-pandemic-more-about-learning-pods-and-esas>.

50. See Angela R Watson, "Parent-Created 'Schools' in the U.S." (2020) 14:4 *J School Choice* 595.

51. Yawar & Mcallister, *supra* note 42.

downsides? With pandemic-era rules requiring students to wear masks and socially distance at school, can school officials be trusted to use “progressive discipline” approaches with reminders and warnings before punishment, or will racialized students once again receive harsher penalties?⁵² And, as police continue to walk the hallways of many schools across Canada, how safe are some children from the overreach of police and the criminal law system? The dilemma is stark: “[s]chool closures have hit the mental health and academic achievement of nonwhite children the hardest, but many of the families that education leaders have said need in-person education are the most wary of returning.”⁵³

Conclusion

A little over a century ago, public schools closed across Canada in the wake of the 1918–1919 influenza pandemic. The pandemic killed 55,000 people in Canada and between twenty to fifty million globally. Until relatively recently, however, it was known mainly for being forgotten.⁵⁴ In contrast to the transformative role of the Great War in the making of modern memory and public life, the influenza outbreak left little public footprint. American historian Nancy Bristow has commented that the most striking feature of the 1918 pandemic was “how little the nation changed as a result.”⁵⁵ Mass suffering and grief were relegated to the realm of individual and family loss; as Bristow concludes, “the public sphere had no place for those memories.”⁵⁶

Collective amnesia applied to public schooling as much as other domains. In 1918, Ontario’s Minister of Education reported that influenza had “worked havoc with schools over the whole Province.”⁵⁷ School closures “greatly

52. See Lisa Kelly & Sonia Lawrence, “We Must Examine Issue of Discipline in Pandemic-Era Schooling”, *Toronto Star* (3 September 2020), online: <www.thestar.com/opinion/contributors/2020/09/03/we-must-examine-issue-of-discipline-in-pandemic-era-schooling.html>; “COVID-19 Has Further Reduced Trust in Education System for Some Black Parents”, *CBC News* (17 February 2021), online: <www.cbc.ca/player/play/1862444099541>.

53. Eliza Shapiro, Erica L Green & Juliana Kim, “Missing in School Reopening Plans: Black Families’ Trust”, *The New York Times* (1 February 2021), online: <www.nytimes.com/2021/02/01/us/politics/school-reopening-black-families.html>.

54. See Mark Honigsbaum, “Why Historians Ignored the Spanish Flu” (3 September 2018), online (blog): <theconversation.com/why-historians-ignored-the-spanish-flu-101950>.

55. Christopher McKnight Nichols et al, “Reconsidering the 1918–19 Influenza Pandemic in the Age of COVID-19” (2020) 19:4 *J Gilded Age & Progressive Era* 642 at 644.

56. *Ibid.*

57. Ontario, *Report of the Minister of Education Province of Ontario for the Year 1918* (Ontario: William Briggs, 1919) at 7.

interfered” with the work of school inspectors at a time when bureaucratic oversight was just maturing. Across the country, exams were delayed and officials warned that teachers would need to do heavy remedial work with students. Only two years later, the same Minister mentioned the influenza pandemic only twice in his four-hundred-page annual report.⁵⁸ The pandemic interrupted but did not derail compulsory public schooling.

Historical silences of this kind, as the Haitian anthropologist and historian Michel-Rolph Trouillot taught, are not apolitical gaps or neutral voids. Silences are produced. Historicity is entangled with power. Which narratives and experiences receive official attention and memorialization, and which are relegated to oblivion, reflects political contests and conflict.⁵⁹ As Hazel Carby writes in her new introduction to Trouillot’s text, “consensus actually masks a history of conflicts; . . . silences appear in the interstices of these conflicts between narrators, past and present”.⁶⁰

The fact that the annals of history largely forgot the 1918 pandemic, and that government officials in Canada continued apace with both progressive and genocidal “schooling” projects afterward, has important lessons for today. We should consider the possibility, as Samuel Moyn has suggested, that this pandemic will simply provide space to intensify and further existing policies and trends.⁶¹ Public schools may continue to operate as spaces to be surveilled, where the physical safety of some is worth the heavy policing of all. Public money may continue to be siphoned out of the provision of quality public education to serve other goals, especially as public revenues drop. Wealthier families may increasingly supplement or exit public education altogether. The pandemic may serve to render all of these choices rational, appropriate, and normal.

To reckon justly with this pandemic requires remembering that its burdens have been exacted unevenly. In the realm of education, these disparities, if left unremedied, may follow young people for the rest of their lives. Temporary shocks and disruptions to children’s education can have permanent, life-long effects on well-being, income, and one’s likelihood to complete high school or access post-secondary education. The question we face is whether we will demand the political and institutional transformations required to live and learn in solidarity, or instead let this pandemic fade away into the private realm of lost opportunity.

58. See Ontario, *Report of the Minister of Education, Province of Ontario, for the Year 1920* (Ontario: Ryerson Press, 1920) at 119, 128.

59. See Michel-Rolph Trouillot, *Silencing the Past: Power and the Production of History*, 20th ed ed by Hazel Carby (Boston: Beacon Press, 2015) at xiii.

60. *Ibid.*

61. See Samuel Moyn, “The Irrelevance of the Pandemic” in Miguel Poirares Maduro & Paul W Kahn, eds, *Democracy in Times of Pandemic: Different Futures Imagined* (Cambridge, UK: Cambridge University Press, 2020) 104 at 106.