TIES OF SEPARATION: ANALOGY AND GENERATIONAL SEGREGATION IN NORTH AMERICA, AUSTRALIA, AND ISRAEL/PALESTINE

Hedi Viterbo

Taking analogy as both its mode and object of inquiry, this article examines the relationship between historical-geographical analogies and generational segregation (the large-scale separation of children and adults) from three complementary perspectives.

First, due to restrictions recently introduced by the Israeli authorities, Palestinian prisoners have been prevented from reading popular study materials dealing with both Indigenous child removal and analogies concerning settler-Indigenous relations in North America and Australia. This article revives the critical potential of this encounter with analogies and accounts, by putting forward an analogy between the removal of Indigenous children to boarding schools in the United States and Canada, Australia’s Aboriginal “stolen generations,” and the increased separation of Palestinian children and adults in Israeli custody. This analogy highlights key parallels: the deleterious effects of allegedly benevolent generational segregation; the invocation of law and children’s “best interests;” the severance of unwanted intergenerational influences; the targeting of children due to their presumed plasticity; the use of separation to govern adults; and links between generational segregation, “national security,” and incarceration.

Second, these analogies—those that Palestinians explored in Israeli prison and the generational segregation analogy developed here—partly overlap with, and acquire their potential and implications from other analogies, concerning settler-Indigenous relations in North America, Australia, and Israel/Palestine. This article investigates the roles such analogies have played, and their alignment with competing ideologies, across a range of legal and political discourses over the past two centuries.

Finally, in order to maximize the critical potential of such historical-geographical analogies, this article offers a conceptual critique of three relevant discourses: legalistic analogies concerning generational segregation, which leave unchallenged the broader field of child law and policy on which such segregation hinges; rigid conceptualizations of (settler) colonialism in debates on analogies between North America, Australia, and Israel/Palestine; and the tendency to reduce analogy to similarity.

Bringing into conversation previously separate bodies of scholarship, these three interdependent perspectives shed new light on important yet hitherto unexamined issues at the intersection of analogy and generational segregation.
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INTRODUCTION

In the last quarter of the 19th century, . . . [the U.S.] government reached the conclusion that successful assimilation required removing Indian children from their reservations and reeducating them away from their families and environments. . . . For several years, Indian parents had to send their children to various off-reservation boarding schools . . . or to specially constructed boarding schools at the periphery of the reservations. . . . Once the children arrived at these schools, their teachers would force them to abandon their tribal customs and adopt white-American behaviors . . . Many children’s experience of the boarding school was traumatic . . . [and the] integrity of the Indian family—whose children had been removed—was severely compromised.

The forced removal of [Aboriginal] children from their families as part of their reeducation continued [in Australia] . . . even during the 20th century. . . . The Australian government’s apology for these actions—even after the findings of an inquiry commission it itself had appointed in the 1990s—was weak and insufficient. . . .

Taken from a textbook of the Israeli Open University on the genocide of North America’s Indigenous peoples, these excerpts seem to lend themselves to analogy. Indeed, as described in this article, this academic book systematically encourages its readers to think critically through analogies between different times and places. As the book title broadly refers to “North America,” such analogy may encompass Canada, where a somewhat similar policy was pursued for over a century by placing an estimated

2. The U.N. Genocide Convention lists “forcibly transferring children of the group to another group” as a genocidal act if “committed with intent to destroy, in whole or part, a national, ethnical, racial or religious group.” G.A. Res. 260 (III) A, Convention on the Prevention and Punishment of the Crime of Genocide (Dec. 9, 1948). This is mentioned in the above Open University textbook. See GUTFELD, supra note 1, at 13. For an extensive discussion of this definition of genocide, see GENOCIDE AND SETTLER SOCIETY: FRONTIER VIOLENCE AND STOLEN INDIGENOUS CHILDREN IN AUSTRALIAN HISTORY (A. Dirk Moses ed., 2004).
3. See infra text accompanying notes 8–12.
150,000 Indigenous children in so-called Indian Residential Schools.\(^4\)

In the last two decades, both Canada and Australia have seen the publication of public inquiry reports on, and prime ministerial apologies for, the generational segregation\(^5\) of their respective Indigenous peoples. There has also been litigation on the matter in both countries. This included a settlement agreement in Canada’s largest ever class action lawsuit on behalf of living residential school survivors, in 2006, which led to a national Truth and Reconciliation Commission operating from 2008 through 2015.\(^6\) In the United States, then-President Obama signed the Native American Apology Resolution into law in 2009, but the event was closed to the public, and the laconic resolution, unlike the bill, made no mention of child removal.\(^7\)

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5. On the reasons for using the phrase “generational segregation,” see infra text accompanying notes 171–72.


7. On these and other shortcomings, see Kevin Bruyéel, The American Liberal Colonial Tradition, 3 SETTLER COLONIAL STUD. 311 (2013); Penny Edmonds, Afterword: On Recognition, Apology and the ‘Hidden History of the
As shown in Part I of this article, the above textbook and the two subjects it addresses—generational segregation and analogies—have played a key role for Palestinians in Israeli prison. Until recently, this textbook was immensely popular among imprisoned Palestinians, many of whom were enrolled in courses provided by the Israeli Open University. Through this and other study materials, they engaged with potentially critical historical-geographical analogies, allowing them to ideationally traverse the prison walls. Further, not only could these Palestinians read about faraway generational segregation in this academic book, but they themselves have also been increasingly subjected to such segregation in Israeli prison as a result of changes to the laws applied to them. Moreover, the Israeli government recently banned their enrollment in such academic courses, thus denying them access to this book—with its analysis of generational segregation and its analogy-oriented critique.

Placing analogies, generational segregation, and their interrelation at its core, this article poses three questions. Part I of the article will address the first question: what critical insights can historical-geographical analogies offer, particularly regarding generational segregation? As if reviving Palestinian prisoners’ encounter with analogy-filled studies, the article will advance an analogy between the removal of Indigenous children to boarding schools in the United States and Canada, Australia’s Aboriginal “stolen generations,” and the separation of Palestinian children and adults in Israeli custody. Through this analogy, important, but hitherto overlooked, parallels will be brought to light: the deleterious effects of allegedly benevolent generational segregation; the invocation of law and children’s “best interests;” the severance of unwanted intergenerational influences; the targeting of children due to their presumed plasticity; the use of separation to govern adults; and links between generational segregation, “national security,” and incarceration.

Having employed analogy as its mode of inquiry, the article will turn, in Part II, to using analogy as an object of inquiry. In so doing, the article will critically reflect, in a sense, on its own method. The article will thus tackle a second question, concerning analogy’s discursive functions: what role have analogies—

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particularly those involving settler-Indigenous dynamics (as in the above textbook)—played in legal and political discourses surrounding North America, Israel/Palestine, and Australia? To address this issue, Part II will analyze a two-century long tapestry of analogies between these countries, discussing the various and often competing narratives and ideologies with which such analogies have aligned themselves. Among other things, this analysis will provide context to better understand Palestinian prisoners’ engagement with analogy-filled studies, as well as Israeli authorities’ crackdown on these studies.

Further inquiring into analogy, and in view of the multiple uses of analogies identified in this article, Part III will consider a third and final question: what are the possible pitfalls of analogies, including the analogies Palestinian prisoners studied and the analogy this article explores in relation to generational segregation in North America, Australia, and Israel/Palestine? How, while opening up certain horizons for thought, do analogies exclude or obscure others? In addressing this question, Part III will focus on three germane framings of analogies. The first is legalistic analogies, which portray the generational segregations in question as violations of, or deviations from, legal norms. This framing, the article will show, ignores crucial connections and parallels these supposedly exceptional segregations share with the broader field of child law and policy. A second problematic framing—often appearing in debates on analogies between North America, Australia, and Israel/Palestine—is rigid conceptualizations or demarcations of (settler) colonialism. This rigidity, the article will argue, represents over-simplistic and reductive understandings of (settler) colonialism. Finally, the third framing of analogies is the common tendency to reduce them to similarity. As the article will explain, this conception overlooks analogy’s predication on difference, ignores analogy’s influence on whether its supposedly preexisting referents are deemed alike in the first place, and risks making similarity a prerequisite for solidarity.

The Conclusion will bring together these three complementary readings. It will discuss their innovative linking of heretofore separate bodies of scholarship, the holistic perspective this approach provides, and the unique implications for thinking about both analogy and generational segregation. As will be explained, methodologically, this holistic approach employs analogy both as a mode and an object of inquiry. In so doing, it highlights the
need for self-reflexivity about one’s method and about the inseparability of methods (such as analogy) from their field of analysis. Substantively, this perspective brings to center stage the political potential common to critical analogies and intergenerational knowledge transfer, and helps think critically about the role both analogy and generational segregation play in the social construction of childhood.

I. ANALOGY AND GENERATIONAL SEGREGATION

This Part of the article will open with a critical analysis of Israeli authorities’ clampdown on two practices that carried the potential for imprisoned Palestinians to ideationally transcend their confinement. The first is Palestinian prisoners’ engagement—through studies now banned by the Israeli government and courts—with historical-geographical analogies and the issue of Indigenous child removal in North America and Australia. The second practice is the transfer of political knowledge from one generation of Palestinian inmates to another, an activity that has faded away following the growing separation of Palestinian children from their adult counterparts in Israeli custody.

Akin to reviving Palestinian prisoners’ encounter with critical analogies and texts, this Part will put forward an analogy between generational segregation in four contexts: the removal of Indigenous children to boarding schools in the United States and Canada, Australia’s Aboriginal “stolen generations,” and the separation of Palestinian children and adults in Israeli custody. This generational segregation analogy will bring to the fore previously unexamined parallels and connections, including as regards the justifications given for generational segregation, its detrimental impact on the segregated populations, and the broader sociopolitical context. Alongside cross-national links generational segregation involved at the time and its lasting legacies in North America and Australia, this analogy will demonstrate its contemporary reemergence in the form of analogous practices in Israel/Palestine.

A. Transcending Prison Through Analogies

The Israeli academic book repeatedly fosters critical thinking through analogies (albeit without explicitly using the term “analogy”). It analogizes “the current approach of the United States toward its Indigenous population” to those of “other states
... [including] Canada ... [and] Australia”⁸ and also encourages students to consider lessons from (and thus think through analogies about) U.S. history.⁹ The textbook further counts the United States—which it calls a “settler state”¹⁰—among the culprits for “colonial’ genocides” by “European settlers ... [in] the Americas and Australia,” settlers who are said to have “supplanted, and directly or indirectly exterminated, America’s Indigenous people ... [and] Australia’s Aborigines.”¹¹ The term “colonial” reappears in another Open University book,¹² this time in reference to Israel’s treatment of Palestinians, perhaps insinuating a cross-national commonality.

Until recently, among the readers of these analogy-invoking textbooks were many of the Palestinians in Israeli custody whom Israeli authorities classify as “security prisoners”—an elastic statutory category applied almost exclusively to Palestinians, predominantly noncitizens.¹³ From 1994, such prisoners could enroll in Israeli Open University courses in the social sciences and humanities, subject to the prison authorities’ discretion.¹⁴ With an average of around 250 security prisoners enrolled each year, mostly under the Palestinian Authority’s sponsorship, these academic courses became hugely popular.¹⁵ Most popular

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⁸ GUTFELD, supra note 1, at 21.
⁹ See id. at 8–9.
¹⁰ Id. at 24.
¹¹ Id. at 19–20.
¹⁴ This provision, made after a hunger strike by some Palestinian prisoners in 1992, was granted in Commission Ordinance 04.48.00: Security Prisoners’ Open University Studies (Jan. 8, 2004, repealed June 2011) (Isr.); it was repealed in 2011. In contrast, non-security prisoners have been allowed to study since as early as 1978. See Petition in HCJ 204/13 Salah v. Israel Prison Serv. (2013) (Isr.) [hereinafter Petition in HCJ 204/13], http://www.acri.org.il/he/wp-content/uploads/2012/12/hit204.pdf.
was a course on the topic of genocide, which includes the foregoing textbooks. As one of the course lecturers would later recount, “the Palestinian prisoners are particularly interested in [studying] . . . the annihilation of the Native Americans.”

In 2011, however, the Israeli government announced a prohibition on these prisoners’ enrollment in Open University courses—a decision that since has been upheld twice by the Israeli supreme court. Being most popular among Palestinian prisoners, the course on genocide, filled with potentially loaded analogies, figured prominently in the ensuing legal and political debate. In his response to Palestinian prisoners’ petitions to lift


17. For excerpts from these textbooks that deal with Indigenous child removal in the United States and Australia, see supra text accompanying note 1.


19. Though the Israeli government presented the ban, in 2011, as a means to pressure the Palestinian Hamas into releasing Israeli soldier Gilad Shalit from captivity in Gaza, the Israeli prison authorities had already barred “security prisoners” from taking around thirty Open University courses four years before Shalit’s capture; access to these courses was resumed, at the time, only following the Palestinian prisoners’ petition on the matter. Petition (Nazareth) 761/02 John Doe v. Israel Prison Serv. (2002) (Isr.), http://www.acri.org.il/pdf/petitions/hit761.pdf; see also Security Prisoners Barred from Taking Certain Courses, ASS’N C.R. ISR. (Nov. 7, 2002) (Hebrew), http://www.acri.org.il/he/529. Additionally, the prison authorities had already introduced the blanket ban on Open University studies in 2010, a year before the government publicly announced it and linked it to Shalit’s release. See Avi Issacharoff & Amos Harel, Palestinian Prisoners: Netanyahu’s Crackdown is Old News, HAARETZ (June 28, 2011), http://www.haaretz.com/print-edition/news/palestinian-prisoners-netanyahu-s-crackdown-is-old-news-1.369940. Despite Shalit’s release in exchange for Palestinian prisoners in 2011, the prohibition on Open University studies remains in place. See, e.g., Joshua Mitnick, Behind Bars, a Famed Palestinian Leads His People in a Prison Hunger Strike, L.A. TIMES (Apr. 18, 2017), http://www.latimes.com/world/middleeast/la-fg-israel-palestinian-hunger-strike-20170418-story.html.

the ban, the Israeli state attorney conflated learning about genocide with genocidal inclinations, by pointing to the popularity of this course as evidence, supposedly, of the prisoners’ fanaticism. Protesting against these “unseemly and outrageous” allegations, the president of the Open University remarked that the course actually “conveys a universal and moral message” and aims to “give students knowledge about the issue of genocide and the ability to analyze it as a historical phenomenon.” Yet, this criticism did not prevent the chair of the Israeli parliamentary Interior and Environmental Affairs Committee, who would later become a minister, from making similar claims:

The . . . prisoners’ main studies are genocide studies—this is unbelievable. . . . [T]hey learn how to continue acting against the State of Israel. . . . The mentality of a prisoner studying genocide is clear. . . . [They] studied genocide . . . in order to perfect their ideas and capabilities toward their possible release from prison . . . . If they wish to rehabilitate themselves, they should study something else, not genocide.

In fact, this academic course on genocide is not the only platform Palestinian prisoners have cultivated for potentially critical historical-geographical analogies. Nor is it the only such platform curtailed by the Israeli authorities. The prisoners’ self-organized study groups have reportedly placed emphasis on examining parallels and differences between military and colonial regimes, as well as on studying the political experience of liberation movements outside Israel/Palestine. The Israeli prison authorities, on their part, have clamped down on this analogy-oriented avenue as well, placing the prisoners’ study activities under increasing restrictions.

Without idealizing the emancipatory power of education, Palestinians’ encounter with these analogies in Israeli prison seems to exemplify what anthropologist Esmail Nashif has described as these prisoners’ “revolutionary pedagogy”: their use of “reading/writing [as a] . . . praxis of resistance . . . not just in and by itself but, more importantly, as part of the community-building process . . . as a space between captives that transcend[s] the space of the prisons.”

The power of such textual engagements to ideationally traverse the prison’s confines becomes all the more pronounced when analogies such as the above are involved, analogies that further urge Palestinian prisoners to think across and in relation to times and places different from their own. By hindering Palestinian inmates’ ability to imagine past the prison walls, Israel’s repression of such studies and analogies operates as mental incarceration of sorts, and thus as an additional form of punishment, even if not formally presented as such.

B. Generational Segregation in Israeli Custody

In addition to losing access to the course textbook that broaches the subject of generational segregation in North America and Australia, Palestinians in Israeli custody have themselves recently experienced increased generational segregation. In the spirit of the analogy-filled study materials these prisoners are prevented from reading, the question arises of whether their generational segregation can, in any sense, be considered analogous to that of Indigenous people in North America or Australia. In order to tackle this question, some background information is necessary.

In the past, Israel held all Palestinian child prisoners, as well as child detainees aged sixteen and over, with Palestinian adults. This inadvertently enabled Palestinian inmates to systematically transfer what they regarded as valuable political knowledge from one generation to another, primarily through their self-organized study activities, leading many Palestinians to view Israeli prison as an academy of political activism for

young inmates. 28 Like the historical-geographical analogies with which they engaged, this intergenerational knowledge transfer held the potential for inmates to transcend their confinement—the potential for ideationally reconnecting them with the Palestinian society from which they had been removed, while also tying their past (their lives prior to prison) to the national future they were devising. None of this escaped the Israeli prison authorities, who, in their journal, described prison as “the national Palestinian academy,” adding: “For [these] prisoners . . . [Israeli] prison is a stage in . . . national development, personally and collectively. . . . [They] have delved into Israeli issues, mainly by reading books . . . [and] have had ideological debates on . . . the future character of the Palestinian state.” 29

This intergenerational transfer of knowledge, however, has substantially declined, due to Israel’s growing separation of Palestinian child inmates from their adult counterparts. Since the early 2000s—a period in which Israel is estimated to have detained between 8,500 30 and 12,000 31 noncitizen Palestinian children—a series of legal changes have nearly eliminated joint incarceration. 33 Further, in 2009, Israel established so-called “military youth courts,” which try Palestinian children separately


33. On these legal changes, see Viterbo, supra note 27. Joint incarceration remains legally permissible in certain circumstances. In addition, at their request, Palestinian prisoners are currently allowed to elect a few adults to oversee child inmates during the day (while held separately at night). This limited
from their adult counterparts\textsuperscript{34} (though there has been no discernible change to either sentencing guidelines for these children or the actual sentences imposed).\textsuperscript{35} In the early stages of this shift, the Israeli judiciary advocated separation as a means to sever intergenerational Palestinian influence.\textsuperscript{36} In 2003, for example, the military court of appeals cautioned against the exposure of a twelve-year-old Palestinian convict “to . . . [older] prisoners’ ideologies” and therefore ordered his separation from those Palestinian “adults who wished to capture his soul,”\textsuperscript{37} an image strikingly reminiscent of nineteenth-century child rescue discourse.

The increased generational segregation of Palestinians in Israeli custody has recently been examined in depth elsewhere,\textsuperscript{38} and this article will therefore only touch upon its most relevant implications. Crucially, the Palestinian adults in question are not “criminals” in the common sense of the word and are incarcerated separately from those who are classified as such. Instead, they often self-identify as “political prisoners.” Further, contrary to the Israeli courts’ remarks, various sources, including testimonies of Palestinian child ex-detainees, suggest that when they were still jointly incarcerated, adult Palestinian inmates provided their juniors with valuable psychological, material, and educational support, in addition to representing their concerns to the Israeli authorities. Moreover, separation from adult inmates has left Palestinian children less protected intergenerational contact has been reported to have both beneficial and harmful consequences for Palestinian children: on the one hand, these adults provide them with valuable assistance and support; on the other hand, Israeli authorities have attempted to trick child suspects into confessing by detaining them with adult Palestinian informants posing as these elected supervisors. On all of these issues, see id. Israel’s use of informants is further discussed infra text accompanying notes 236–37.

34. Israeli military courts try thousands of Palestinians from the West Bank every year and assume jurisdiction even over territories formally under the Palestinian Authority’s control. Hedi Viterbo, \textit{Military Courts}, in \textit{The ABC of the OPT: A Legal Lexicon of the Israeli Control over the Occupied Palestinian Territory} (Orna Ben-Naftali, Michael Sfard & Hedi Viterbo authors, forthcoming in 2018).

35. \textit{See} Viterbo, \textit{supra} note 27.

36. \textit{See} id.

37. Mil. Appeal 358/03 Military Court of Appeals (Judea & Samaria), Al-Nasirat v. Military Prosecution (2003), Nevo Legal Database (by subscription, in Hebrew) (Isr.).

38. \textit{See} Viterbo, \textit{supra} note 27.
against the abuse they frequently report suffering at the hands of the Israeli prison and security staff.39

Formally, these Palestinian children are separated not from their parents but from the older inmates—a major difference, ostensibly, to Indigenous child removal in Australia and North America. In practice, however, many if not most of these Palestinian children are also denied contact with their parents, usually on “security” grounds or as a result of being transferred to facilities inside Israel, and thus out of their families’ reach.40 Like the growing restriction of Palestinians’ studies in Israeli prison, the frequent denial of parental contact operates as a form of psychological incarceration, and thus as extra punishment, even if not presented as such. For those children who are denied contact with their parents, adult Palestinian prisoners might be the closest available substitute for parental care.41 A child formerly detained with adults indeed intimated this: “The [adult] detainees treated us [children] well. . . . I felt comfortable. . . . At first, I was afraid and cried sometimes, because my family was far away. . . . The adult detainees took care of me.”42

Following the growing generational segregation, the Israeli supreme court has relentlessly pressed for the prison authorities to exert counter-influence on Palestinian children in Israeli custody—or, in the court’s words, erect a “counter-barrier” of “rehabilitation,” “education and treatment.”43 No longer was it enough to terminate potentially politicizing practices, such as studies

41. See DEFENCE FOR CHILDREN INTERNATIONAL—PALESTINE, supra note 40.
and intergenerational interactions in prison. Active de politicization, formulated as “rehabilitation” at Israeli hands, became the new frontier. Yet, from the standpoint of many Palestinians, children who violate Israeli military law, such as stone-throwers and demonstrators, are not juvenile delinquents in need of rehabilitation—all the more so when their so-called “rehabilitation” is placed in the hands of Israeli authorities, whose commitment to Palestinian interests is questionable. Further, in practice, most of the Israeli rulings extolling “rehabilitation” have neither avoided nor reduced Palestinian children’s prison sentences. Unlike generational segregation, the judicial preoccupation with “rehabilitation” has yet to be translated into substantial changes in actual incarceration or trial arrangements—a matter the Israeli supreme court has censured on several occasions.

C. Analogizing Generational Segregation

As described thus far, while undergoing growing generational segregation, Palestinian prisoners have also been denied access to the study materials that deal with Indigenous child removal and historical-geographical analogies. A “what if” question thus arises: what if these Palestinians could continue encountering these analogies and information? Specifically, what insights and parallels could such analogies offer in relation to generational segregation, given the treatment of this issue in the Open University course book?

A possible starting point for exploring such parallels is the detrimental effects of generational segregation. These include, among other things, exposing the separated children to either adult or peer abuse. Rather than separating children from adults outright, generational segregation has resulted in their placement with potentially abusive adults: be they Israeli state agents or, in North America and Australia, boarding school staff. In addition, in North America and Australia alike, while

44. See Viterbo, supra note 27.
46. See Viterbo, supra note 27; Veerman & Waldman, supra note 39.
47. See David Wallace Adams, Education for Extinction: American Indians and the Boarding School Experience, 1875–1928 (1995); Churchill, supra note 4; Margaret D. Jacobs, White Mother to a Dark
generational segregation fostered a strong peer culture, it also exposed some Indigenous children to peer abuse in boarding schools. Interviews with former Palestinian child prisoners likewise suggest that Palestinian children might now be more likely to fight each other now because adult Palestinian inmates are not around to peacefully mediate their disputes. Moreover, because most Palestinian child inmates come from poor families in which children and adults sleep in the same room, separation from older prisoners may cause additional punishment for these children. This serves as a possible parallel to the relative age heterogeneity of Indigenous communities in North America and Australia prior to their generational segregation. None of this suggests, however, that the experience of generational segregation is inevitably or entirely negative for each and every child concerned. For instance, the boarding school systems had certain unintended consequences that some Indigenous children and communities have characterized as positive or empowering. Yet, these positive effects, if they were indeed that, do not diminish the harms of generational segregation.

Furthermore, across time and space, generational segregation has largely been couched in a language of legalism and benevo-

48. See Jacobs, supra note 47, at 204.
49. See Andrew Armitage, Comparing the Policy of Aboriginal Assimilation: Australia, Canada, and New Zealand (1995); Jacobs, supra note 47; Woolford, supra note 47, at 206; Jacobs, supra note 47.
50. See Veerman & Waldman, supra note 39, at 155.
51. See id.; see also Viterbo, supra note 27.
52. See Jacobs, supra note 47, at 240–42; Jacobs, supra note 47, at 208–09.
lence. Israeli authorities have portrayed it as being both consistent with international law and in Palestinian children’s “best interests.” Law, benevolence, rights, and humanism were similarly invoked to advocate the displacement and reeducation of Indigenous children in North America and Australia, and statutory authorities were developed and expanded to increasingly facilitate these measures. In the late nineteenth-century United States, placement in off-reservation boarding schools was portrayed as “rescuing . . . [Indigenous] children and youth . . . from the awful doom that hangs over them” and also as granting them “an opportunity for the development of . . . [their] better nature” by turning them into “honorable, useful, happy citizens of a great republic.” “Without it,” it was claimed, they were “doomed either to destruction or to hopeless degradation.” Accordingly, legislation at the time spoke of the need to “ensure the attendance of Indian children . . . at schools established . . . for their benefit.” Over several decades, beginning in the 1880s, Australian officials likewise asserted that “half-caste” children “need protection and control, otherwise they become a menace to the white race.” Generational segregation was hence presented as rescuing Australia’s Indigenous children “from danger to themselves, and from being a danger to the whole of the white population” and also as a means of turning them into “decent


56. JACOBS, supra note 47, at 40–41.

57. Id.

58. CHURCHILL, supra note 4, at 16.

59. JACOBS, supra note 47, at 72.
and useful members of the community,” whereas non-separation was described as, “to say the least . . . , cruel.”

In order to achieve these goals, a more specific common rationale, in varying iterations, has been that separation would sever allegedly harmful intergenerational ties. While presenting rehabilitation at Israeli hands as a means to enable Palestinian children “to function in accordance with norms and productively”—an alleged benefit to “the public interest”—Israeli courts have also recurrently warned that intergenerational Palestinian interactions in prison would undermine such rehabilitation. Child removal on both sides of the Pacific was likewise largely targeted against unwanted intergenerational knowledge transfer and aimed to break Indigenous children’s habits, thereby making them “useful” to white society. In the 1860s, U.S. officials voiced concerns over Indigenous adults’ “deleterious influences” over their youngsters, resulting in the “infection” of the latter with “the filthy habits and loose morals of their parents.” A Canadian federal report likewise declared, in 1880: “The Indian youth, to enable him to cope successfully with . . . white [society] . . . , must be dissociated from the prejudicial influences by which he is surrounded.” Similarly, in the 1880s and 1890s, Canadian exponents of Indigenous child removal

60. Id.; Haskins & Jacobs, supra note 53, at 229, 231. Aside from sharing such similar justifications, generational segregation has also rested on a similar legal architecture: formally granting certain entitlements to the separated population but effectively denying these entitlements through various statutory loopholes. See Viterbo, supra note 27; Jacobs, supra note 47, at 166–67; see also Adams, supra note 47, at 65.


62. See, e.g., Mil. 1261/09 (Judea), Military Advocate General v. El-Farukh (2009), Nevo Legal Database (by subscription, in Hebrew) (Isr.); Mil. 4779/08 (Judea), Military Advocate General v. Makhlouf (2009), Nevo Legal Database (by subscription, in Hebrew) (Isr.).


64. Churchill, supra note 4, at 21.

65. Swain, But the Children, supra note 55, at 139.
cautioned against leaving Indigenous children “under the guardianship of degraded parents,” who were seen as setting a “terrible example” for their children and thereby destining them to become “as depraved as themselves notwithstanding all the instructions given them at a day school.” In a similar vein, in 1937, one Australian state official claimed: “It is infinitely better to take a child from its mother, and put it in an institution . . . than to allow it to be brought up subject to the [Aboriginal] influence.”

Neither reeducation nor separation alone was thus seen as sufficient. On the one hand, without rigid separation from their elders, exposure to intergenerational influence would have undermined the children’s reeducation. On the other hand, without reeducation, unwelcome habits and customs could not be properly replaced with knowledge acceptable to the dominant white culture.

Underpinning this rationale has been the targeting of children due to their presumed plasticity, being children, in contrast to the supposed irredeemability of their elders. The Israeli supreme court has emphatically espoused the “treatment of security prisoners who are minors or young adults,” “whose rehabilitation chances are better” than those of their older counterparts.

Further, the court recently remarked: “Where [security prisoners’ who are] minors are concerned, an educational effort is needed,” adding that even with a “young adult there may be room for hope.”


67. MILLOY, supra note 4, at 26.

68. JACOBS, supra note 47, at 43–44.

69. See ADAMS, supra note 47; ARMITAGE, supra note 49; Jacobs, supra note 47; MILLOY, supra note 4; Clifford E. Trafzer, Jean A. Keller & Lorene Sisquoc, Introduction: Origin and Development of the American Indian Boarding School System, in BOARDING SCHOOL BLUES: REVISITING AMERICAN INDIAN EDUCATIONAL EXPERIENCES 202 (Clifford E. Trafzer, Jean A. Keller & Lorene Sisquoc eds., 2006); WOOLFORD, supra note 47; Swain, But the Children, supra note 55.


1820s and 1830s, Canadian administrators declared that Indigenous “[c]hildren—the rising Generation, hold out a field for exertion,”73 and that since “little perhaps can be expected from the grown up Indians, . . . [successful civilization] will chiefly depend upon . . . influence . . . over the young.”74 Later proponents of generational segregation for Canada’s Indigenous children continued placing their hopes in “the plastic young nature.”75

These children, it was believed, needed to be “caught young to be saved from . . . the degenerating influence of their home environment,”76 which meant that “it is to the young that we must look for the complete change of condition.”77 Indigenous adults, in contrast, were generally referred to as the “old unimprovable people” and deemed “physically, mentally and morally . . . unfit[] to bear such a complete metamorphosis.”78 In the late 1870s, a prominent Canadian official maintained that “[i]f anything is to be done with the Indian we must catch him very young,”79 adding that U.S. authorities, too, “have not much hope in regard to adult Indians, but sanguine anticipations are cherished respecting the children.”80 Officials in the United States opined that the “main hope lies with the youthful generations who are still measurably plastic,” whereas “little can be hoped from them after growth.” One official declared in 1879: “It is a mere waste of time to attempt to teach the average adult Indian the ways of the white man.” Another emphasized seven years later: “It is rather the little children that must be taken in hand.”81 South Australia’s Protector of Aborigines argued in 1909, somewhat similarly, that “the children of half-castes are as a rule much lighter

73. Swain, But the Children, supra note 55, at 136–37.
74. Milloy, supra note 4, at 15.
75. Swain & Hillel, supra note 66, at 92.
76. Woolford, supra note 47, at 198.
77. Milloy, supra note 4, at 27.
78. Id. at 25–26.
79. Sarah de Leeuw, ‘If Anything is to be Done with the Indian, We Must Catch Him Very Young’: Colonial Constructions of Aboriginal Children and the Geographies of Indian Residential Schooling in British Columbia, Canada, 7 CHILD. GEOGRAPHIES 123, 129 (2009).
81. Adams, supra note 47, at 18–19.
than their parents, and no doubt the process will continue until
the blacks will altogether disappear."{82}

Though ostensibly child-focused, generational segregation tar-
gets adults as much as children. It aims to sever adults’ bonds
with their future, a future embodied in the separated children,
and consequently shatters the Indigenous or ethnic minority col-
lective. Additionally, it is concerned with the dominant group’s
adults, for whom it endeavors to create a new future. And, be-
yond all of these functions, generational segregation has also
served to govern adults no less than their separated juniors. For
Israeli authorities, the presumed incorrigibility of the now-seg-
regated Palestinian adult inmates has furnished justification for
eroding their rights, such as Open University studies. A core argu-
ment of Palestinian prisoners’ court petitions on the matter
was that these studies aided their rehabilitation,\(^8^3\) a claim reit-
erated by Open University lecturers who joined the litigation as
amicus curiae.\(^8^4\) One lecturer added elsewhere that the univer-
sity’s “comparative genocide studies” placed the Jewish Holo-
caustr “within a comparative context and as part of the general
phenomenon of genocide,” resulting in this historical event “no
longer [being] dismissed by Palestinians as Zionist propa-
ganda."\(^8^5\) The Israeli prison authorities, however, responded
that these prisoners could not be meaningfully rehabilitated,\(^8^6\)
and the supreme court subsequently rejected the petitions.\(^8^7\)

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82. Jacobs, supra note 47, at 214. On similar remarks in the Australian
press, see Shirleene Robinson & Jessica Paten, The Question of Genocide and
Indigenous Child Removal: The Colonial Australian Context, 10 J. GENOCIDE
83. See Petition in CA (Naz) 16209-09-11 Sultany v. Israel Prison Serv.
(2011) (Isr.), https://www.adalah.org/uploads/old-
84. HCJ (further hearing) 204/13 Salah v. Israel Prison Serv. (2015), Nevo
Legal Database (by subscription, in Hebrew) (Isr.).
85. Alsheh, supra note 18.
86. See AdminC (Naz) 27387-09-11 Salah v. Israel Police (2012), Nevo Legal
Database (by subscription, in Hebrew) (Isr).
87. See CA 2459/12 Salah v. Israel Prison Serv. (2012) (Isr.),
http://elyon1.court.gov.il/files/12/590/024/s07/12024590.s07.pdf; HCJ (further
Since their increased separation, these adults have also been denied other entitlements, including visits for precharge adult detainees and access to books from the outside.

With Indigenous adults in nineteenth-century North America, a key function of generational segregation was as a counterinsurgency measure. During his tenure overseeing Indigenous war prisoners, Richard Henry Pratt—a key figure in the history of Indigenous child removal and reeducation—dealt with the adults’ requests to reunite with their children and women. It was then that he realized that generational segregation could serve to pacify Indigenous adults. At a time when education had already become an integral part of an aggressive policy of pacification, others in the United States came to share Pratt’s view. One government official wrote to Pratt that “placing Indian children in school” would make their “parents . . . much easier managed . . . and never dare, or desire, to commit a serious wrong.” Another official specifically ordered Pratt to obtain children from two hostile reservations to be used as “hostages for tribal good behavior.”

Canadian prime minister John MacDonald’s interest in the possibility of reeducating Indigenous children, in the 1870s, was similarly inspired by his concern over Indigenous unrest. State officials and clergymen in Canada expressly spoke of residential schools as imperative tools for preventing Indigenous “rebellion” and enabling the peaceful occupation of the West. A key figure in Canada’s Department of Indian Affairs thus opined, in 1886: “It is unlikely that any Tribe or tribes would give trouble of a

88. See Viterbo, supra note 27.
89. See id.
90. In addition, despite the tendency to dismiss Native American adults as incorrigible, some proponents of child removal nonetheless placed hope in children sharing their knowledge with adults upon return to the reservation. Adams, supra note 47; Jacobs, supra note 47, at 211–12; Trafzer et al., supra note 69.
91. See Jacobs, supra note 47, at 213.
92. See Jacqueline Fear-Segal, White Man’s Club: Schools, Race, and the Struggle of Indian Acculturation (2007); Haskins & Jacobs, supra note 53.
serious nature to the Government whose members had children completely under Government control.”

Similar arguments supporting child removal as a necessary means to break Indigenous resistance were also made in Australia in the 1850s and 1860s.

While Israel classifies the separated Palestinian children as “security offenders,” the attempt to use generational segregation to break Indigenous insurgency and resistance in North America and Australia illustrates a broader common interrelation—by no means exclusive to Israel/Palestine—between generational segregation, incarceration, and “national security.” The Open University course book that Palestinian prisoners are no longer allowed to read aptly describes Pratt as a “military officer with great experience in fighting Indians.” Indeed, it was while experimenting in “rehabilitating” Indigenous prisoners of war through reeducation, work, and military discipline that Pratt, the war veteran, developed his ideas about reforming Indigenous children. Pratt’s fusion of the “battlefield and classroom” continued when he later established the first, highly influential, government-supported off-reservation boarding school for Indigenous children at an unused military base donated by the U.S. War Department. Following suit, a number of other schools were established in military barracks, and even schools not thus

95. Milloy, supra note 4, at 32.
96. See Robinson & Paten, supra note 82, at 507, 510.
97. Gutfeld, supra note 1, at 145.
99. Adams, supra note 47; Churchill, supra note 4; Fear-Segal, supra note 92; Jacobs, supra note 47; Woolford, supra note 47; Haskins & Jacobs, supra note 53, at 228; Trañzer et al., supra note 69; Witte & Mero, supra note 93. Incidentally, the same borough where Pratt’s school once stood is home to the U.S. Army War College—the alma matter of another prominent military officer: Israel’s incumbent chief of staff, Gadi Eizenkot. See Noam Amir, Ya’alon and Netanyahu Agree: Gadi Eizenkot to be Appointed the IDF’s 21st Chief of Staff, MAARIV, Nov. 28, 2014, http://www.maariv.co.il/%D7%97%D7%93%D7%A9%D7%95%D7%AA%D7%A6%D7%91%D7%90%D7%95%D7%91%D7%99%D7%97%D7%95%D7%9F%D7%9A%D7%94%D7%91%D7%99%D7%98%D7%97%D7%95%D7%9F-%D7%99%D7%9E%D7%9C%D7%99%D7%A5-%D7%A2%D7%9C-%D7%92%D7%93%D7%99%D7%90%D7%99%D7%96%D7%A0%D7%97%95%D7%95%D7%99%D7%9E%D7%9C%D7%AA%D7%A4%D7%97%99%D7%93-%D7%94%D7%A8%D7%9E%D7%98%D7%9B%D7%9C-%D7%94-21%D7%A9%D7%9C-%D7%A6%D7%94%D7%9C-455267.
placed were nevertheless patterned after military compounds.\textsuperscript{100} There were initially dozens of children among the Indigenous prisoners, but most of them were eventually separated from the rest and placed in boarding schools. This was done even though the prison authorities recognized that such “separation . . . is what [these prisoners] . . . constantly dread.”\textsuperscript{101}

Due to their military-like drills and order, along with other reasons, many child inmates analogized boarding schools such as Pratt’s to prisons, an analogy reiterated by numerous writers at the time.\textsuperscript{102} Some Australian Indigenous children, too, depicted the institutions to which they were removed in similar terms.\textsuperscript{103} For Native American children, prison was more than a metaphor, since a standard form of punishment was to actually place them in a school “jail.”\textsuperscript{104} One U.S. state official also linked education, criminality, and armed conflict, differently, when warning in 1896 that Indigenous children, if left in their communities, would “listen only to stories of war, rapine, [and] bloodshed” and consequently would become “a perpetual menace to our western civilization . . . that will . . . threaten [national] peace.”\textsuperscript{105}

Against this backdrop, it becomes clear that the two institutional sites of generational segregation—incarceration (for Palestinian “security prisoners”) and schools (for Indigenous people in North America and Australia)—have much in common.\textsuperscript{106} Further, the continued hyperincarceration of Indigenous children\textsuperscript{107} can be seen both as a legacy of Indigenous child removal

\textsuperscript{100} CHURCHILL, supra note 4; Witte & Mero, supra note 93, at 396.

\textsuperscript{101} Jacobs, supra note 47, at 212; see also ADAMS, supra note 47; FEARS-SEGAL, supra note 92; EVELYN NAKANO GLENN, FORCED TO CARE: COERCION AND CAREGIVING IN AMERICA 50 (2010); Andrew Woolford & James Gacek, Genocidal Carcerality and Indian Residential Schools in Canada, 18 PUNISHMENT & SOCY 400 (2016).

\textsuperscript{102} ADAMS, supra note 47; JACOBS, supra note 47; Haskins & Jacobs, supra note 53, at 228–29; Jacobs, supra note 47; Trafzer et al., supra note 69.

\textsuperscript{103} Jacobs, supra note 47, at 218.

\textsuperscript{104} ADAMS, supra note 47, at 123.

\textsuperscript{105} JACOBS, supra note 47, at 43, 48.

\textsuperscript{106} See also Woolford & Gacek, supra note 101.

and as its continuation by other means. Formulating this observation as an analogy, one Canadian defense attorney has described prison as “a ‘school’ for those [many Indigenous children] compelled to attend,” and criticized its “astonishing” parallels with so-called Indian Residential Schools—both being instruments of mass removal, cultural assimilation through restrictions on Indigenous practices, and rampant abuse.  

Indeed, a growing number of scholars have shown how the experiences, effects, and policies of Indigenous child removal intersect with and inform contemporary discourses and practices in North America and Australia. In this and other regards, Indigenous child removal can be seen not as a past event but rather, to an extent, as an ongoing process. The legacies of Indigenous child removal, it has been shown, are evidenced by hyperincarceration and other criminal justice issues—as well as in the child welfare system and other areas of law and policy. The generational segregation analogy provided here expands and adds layers to this critical conversation, by highlighting how Indigenous child removal has transcended not only the times but also the countries where it occurred; how it has transmigrated and, in a sense, reemerged in the form of analogous practices.


109. See Corrado, supra note 107; Rolnick, supra note 107; White, supra note 107.


beyond North America and Australia, such as the generational segregation of Palestinians in Israeli custody. Moreover, this recent development in Israel/Palestine has not received the scrutiny it deserves, possibly due to its invocation of taken-for-granted social and legal norms about childhood and children’s “best interests.” Analogizing the Israeli-Palestinian situation to Indigenous child removal therefore helps problematize a contemporary development that has hitherto largely escaped critical notice.

II. ALREADY ANALOGIZED

Three engagements with analogies, some more direct than others, have emerged thus far. First, Palestinians’ encounters with analogies in prison, including analogies concerning settler-Indigenous conflicts and, specifically, Indigenous child removal in North America and Australia. Second, Israeli authorities’ crackdown on the studies that brought together these prisoners and analogies. Finally, this article’s attempt to revive and explore, through the generational segregation analogy, the critical potential of Palestinian prisoners’ interaction with analogies.

None of these, however, have taken place in a social or historical vacuum. Their surrounding legal and political discourses are rife with analogies, tying contemporary Israel/Palestine to other times and places, including those discussed in this article. For example, a few years after the U.S. involvement in the Gulf War, Uri Shoham, Israel’s former military advocate general at the time and currently an Israeli supreme court justice, published an article in the (U.S. journal) Military Law Review, opening with the following hypothetical analog to Israel’s rule over the Palestinian territory:

[I]magine the United States being in control of an area of land a quarter its own size, located just scant miles away from major United States cities, and populated by no less than 120 million Iraqis. With a few minor adjustments, these are the circumstances Israel has had to face since [assuming control over the West Bank and Gaza Strip in] 1967. 113

More recently, the Israeli military drew a similar hypothetical analogy to garner international support for its 2014 offensive on

the Gaza Strip. It disseminated an image online depicting rockets heading toward the Statue of Liberty in New York, with a caption that read: “What would you do?”

Israel’s supreme court has likewise drawn analogies between Israeli and U.S. counterinsurgency laws as grounds, among others, for denying petitions against the detention of Palestinians without trial. Over in the United States, in 2005, a Central Intelligence Agency attorney, seeking to garner legislative support for continued use of controversial interrogation methods, analogized the public debate on the matter to the situation in Israel. As he described it, the Israeli supreme court had “ruled that several . . . [interrogation] techniques were possibly permissible, but require[d] . . . legislative sanction” and the Israeli government “ultimately got limited legislative authority for . . . specific techniques.”

 Analogies thus align themselves with both state and counter-state ideologies, thereby lending themselves to different and even competing uses in different hands. Because analogies can be imbued with varying effects, there is a need for a more nuanced understanding of how analogies—such as the generational segregation analogy developed in this article—operate, or can operate. Before theorizing this issue more broadly, the article will now analyze its concrete manifestations in one particularly relevant type of analogy, which also appears in the academic course books to which Israeli authorities have denied Palestinians access: that concerning settler-Indigenous relations in North America, Australia, and Israel/Palestine.

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117. See supra text accompanying notes 8–12.
Aside from the course books now out of Palestinian prisoners’ reach, such analogies have figured centrally in contemporary cross-national solidarity activities, among other sites. This global solidarity project serves as a context within which to place, and through which to better understand, the implications of the analogies at the heart of this article—among other reasons because Palestinian prisoners themselves have studied the experiences of anticolonial and liberation movements elsewhere.\footnote{118} Thus, in a recent statement in support of Indigenous sovereignty and rights in Canada, a Palestinian group pointed to “deep connections and similarities between our peoples.”\footnote{119} Recently, a Palestinian student from Gaza fleshed out this analogy in an open letter supporting Native American-led demonstrations:

> When I read your history, I can see myself and my people reflected in yours . . . America’s policy of occupation and displacement . . . and the gradual transfer of so many of your people to massive, impoverished reservations, hurts me deeply because it is so similar to the ethnic cleansing of my ancestors by the Israeli military occupation. . . . Like you, we don’t control our natural resources.\footnote{120}

Drawing a reverse analogy, Canadian First Nations author Lee Maracle has called Palestinians the “Indians of the Middle East.”\footnote{121} Similarly, after a visit to the West Bank, a member of a delegation of U.S. Indigenous and other nonwhite women depicted the situation there as “a high-speed and high-tech version of the colonization of our Indigenous homelands.”\footnote{122} On another occasion, one of several Canadian activists recounted how they had raised the Palestinian and Mohawk flags on the same pole to show solidarity and drew the following analogy: “[W]e would . . . think, we are one, and the winds carry our colours together

\footnotesize{118. See supra text accompanying note 24.  \\
121. Mike Krebs & Dana M. Olwan, From Jerusalem to the Grand River, Our Struggles are One: Challenging Canadian and Israeli Settler Colonialism, 2 SETTLER COLONIAL STUD. 138, 142 (2012).  \\
from Jerusalem to the Grand River. . . . Our struggles are one.”123 A group of Native American academics likewise publicly asserted: “Indigenous Peoples’ experience parallels what has happened to the occupied Palestinians. . . . [Both] have suffered through the process of settlement, colonization, or militarization of their homelands.”124

This latter analogy is representative of a recent wave of scholarship analogizing Palestinians to North American or Australian Indigenous people, including: a critique of Israeli jurisprudence on Palestinian-Bedouin property rights through the legal framework of Australian native title jurisprudence,125 a scholarly analogy between the legal regimes dispossessing Palestinians and Native Americans from national resources,126 an analogy between Palestinian and Native American poetry,127 and analogies between (primarily literary) discourses surrounding Palestinians and Native Americans.128 Another Native American academic and activist pointed not only to parallels but also to chronological overlap in “our shared histories . . . with Palestinian people,” analogizing the Nakba—the mass displacement of Palestinians in 1948—to the “mass relocation of Native [American] people off of tribal lands . . . around the [same] time.”129

Yet, as with Israeli and U.S. legal discourses,130 it is often state supporters and allies that resort to analogies of their own,

130. See supra text accompanying notes 113–16.
overtly or implicitly countering such critical analogies. Certain North American Indigenous public figures have thus analogized their peoples not to Palestinians but to Israeli Jews. 131 Such analogies, however, have garnered criticism from other North American Indigenous people for complicity in what they term “redwashing”—Israel’s attempt to fend off international censure by associating itself with Indigenous peoples.132 A major bone of contention within this battlefield of analogies is thus the question of entitlement to claim Indigenous status in Israel/Palestine.133

Israeli state officials, lawyers, and soldiers, too, have explained or legitimized their actions by means of analogy, though the analogue to Israeli Jews has varied: white settlers in some cases, and Indigenous people in others. Former Israeli prime minister Ariel Sharon once told a U.S. official: “We have learned a lot from you Americans, how you moved West.”134 Soldiers in the Israeli military’s Golani brigade have long referred to themselves not as settlers but as (American) “Indians.”135 In 2016, a photograph was published of a soldier wearing a shirt with a picture of a Native American chief and the text: “When . . . the Indian [analogously, the Israeli soldier] hits, every Arab mother shall cry.”136 A legal advisor to an Israeli municipality, invoking the infamous terra nullius doctrine while criticizing the marketing of a land for residential development, asserted that the current residents “are not [American] Indians. This is not an empty

133. On the place this issue occupies in scholarly debates on Israel/Palestine, see, e.g., Oren Yiftachel et al., Between rights and denials: Bedouin indigeneity in the Negev/Naqab, 48 ENVIRONMENT & PLANNING A 2129 (2016).
On another occasion, the Israeli supreme court made reference to U.S. federal legal protections for Indigenous burial sites, despite ultimately authorizing construction on Muslim cemetery grounds.

Contextualized in this light, Palestinians' analogy-oriented studies in Israeli prison, and Israeli authorities' crackdown on these studies, can be understood as part of a broader battleground of analogies regarding Indigenous-settler relations. In this discursive terrain, it is the opponents of counter-official analogies themselves who continuously deploy analogies invoking settlers and Indigenous people. In fact, opposing sides sometimes utilize the exact same analogy. In a 2013 meeting of the Israeli parliamentary Interior and Environmental Affairs Committee, for instance, the committee chair dismissed allegations that a bill under discussion would continue the forced transfer and dispossession of Palestinian Bedouins and suggested that this would be no worse than “what the Americans did to the Indians,” thus making light of Palestinians' and Native Americans' situations at the same time. A member of an opposition party responded reprovingly: “I very rarely agree with you, Madam Chairwoman. Precisely as they did to the Indians. Indeed. Israelis and Americans are in the same boat.” Also imbued with competing meanings has been an analogy to the American “Wild West.” A former Deputy Speaker of the Israeli parliament, on the one hand, has applied this analogy to Israel's allegedly unruly Palestinian citizens. On the other hand, other Israeli politicians have suggested that it is certain Jewish settlers in the West Bank who are the lawless analog.
Despite transformation over time, such historical-geographical analogies are hardly new. Throughout the past two centuries, similar analogies have occupied an important place in discourses surrounding Israel/Palestine, North America, and Australia, providing a historical context for better understanding the analogies examined and introduced by this article. Thus, while some prestatehood Zionists undertook to distance themselves from imperialism, others, including prominent activists and thinkers, frequently and unapologetically analogized themselves to European settlers in North America or elsewhere. Speaking in the United States in 1915, David Ben-Gurion, later Israel’s first prime minister, vowed that Jewish settlers in Palestine would “turn the wasteland and desolation into a flourishing . . . oasis, as did the English settlers in North America.”

Harking back to the “history of American settlement,” he extolled the “herculean . . . tasks of the colonists who came to find the new Homeland in the New World” and their “fierce . . . fights . . . with wild nature and wilder redskins, the sacrifices made before they unlocked the continent for mass influx and colonization.” Years later, as incumbent prime minister, he urged an audience of U.S. Jews in Israel to consider themselves “on the edge of colonization,” in a mission even more difficult than the “conquest of the Wild West.”

In 1921, Israel’s future first president, Chaim Weizmann, encouraged the members of the World Zionist Congress that, unlike the history of “British dominions,” Jews were making remarkable achievements in Palestine, especially considering “the inevitable percentage of failures which occurs in all colonizing work.” Similar analogies appeared in The Iron Wall, the famous essay by revisionist Zionist leader Vladimir Jabotinsky:

146. Id.
That the Arabs of the Land of Israel should willingly come to an agreement with us is beyond all hopes. . . . [Those] “great explorers,” the English, Scots and Dutch who were the first real pioneers of North America . . . not only wished to leave the redskins at peace but could also pity a fly. . . . But the native resisted both barbarian and civilized settler with the same degree of cruelty. . . . [There] has never been an indigenous inhabitant anywhere or at any time who has ever accepted the settlement of others in his country. . . . And so it is for the Arabs. . . . They look upon Palestine with the same instinctive love and true fervor that any Aztec looked upon his Mexico or any Sioux looked upon his prairie.147

Conversely, in the United States, the Indigenous population has long been analogized to Palestine’s Arabs. Nineteenth-century landscape paintings in the Southwest frequently featured Native Americans in clothing and scenery akin to those of Bedouin Arabs, and one of the era’s travel authors expressed astonishment at how Palestine’s “Arabs can hear and recognize each other’s voices” using “distinctive cries, corresponding to the whoops of our Indians.”148 Twentieth-century U.S. tourist guides and travelogues romanticized Palestinians (particularly Bedouins) as omnipotent Native American chiefs, and one 1955 guide described a Bedouin encampment as “Israel’s ‘Red Indian Reserve’” and a Jewish Kibbutz as having “features of a Texan frontier post.”149

Related analogies appeared outside the United States and Israel/Palestine as well. In 1937, Winston Churchill, the United Kingdom’s would-be prime minister, publicly likened Palestinians to a dog in the manger, adding:

I do not agree that the dog in a manger has the final right to the manger even though he may have lain there for a long time. I do not admit that right. I do not admit, for instance, that a great wrong has been done to the Red Indians of America, or the black [i.e., Aboriginal] people of Australia . . . by the fact

149. ROBINSON, supra note 145, at 54–55.
that . . . a higher grade race . . . has come in and taken their place.\textsuperscript{150}

A few years later, British Labour Member of Parliament, Richard Crossman, drew a similar analogy. While serving on the government-appointed Anglo-American Committee of Inquiry into the Problems of European Jewry and Palestine, he analogized Zionism to the way “the American settler developed the West” and Palestine’s Arabs to “the aboriginal who must go down before the march of progress.”\textsuperscript{151}

As this two-century long discursive tapestry indicates, analogies are already ubiquitous. Analogy is a key mode of acting, thinking, and communicating,\textsuperscript{152} central to law\textsuperscript{153} and politics.\textsuperscript{154} Some, like essayist and poet Ralph Waldo Emerson and philosopher Friedrich Nietzsche, have gone as far as asserting, respectively, that “[a]ll thinking is analogising,”\textsuperscript{155} and “[e]very concept arises from the equation of unequal things.”\textsuperscript{156}

This near unavoidability of analogies carries at least two implications. First, analogies such as those offered by this article, by the Israeli Open University course book, or by other scholarly

\begin{footnotesize}
\begin{enumerate}
\item Tambiah, supra note 152, at 34.
\item FRIEDRICH W. NIETZSCHE, ON TRUTH AND LIES IN A NonMORAL SENSE 9 (2012).
\end{enumerate}
\end{footnotesize}
sources cited in this article,\textsuperscript{157} are best understood not as external observations removed from their object of inquiry, but as part and parcel of an already analogy-laden discourse. A second implication is that a critical inquiry is needed (only) into whether to utilize such analogies, but rather into how analogies operate, can operate, and are prevented from operating and what they facilitate or obstruct within specific settings and framings.

III. ANALOGY’S FRAMEWORKS

Thus far, the article has put forward the generational segregation analogy (in Part I) and has then contextualized this analogy within analogies concerning settler-Indigenous relations (in Part II). This Part will investigate analogy at a broader conceptual level, in and beyond the generational segregation and settler-Indigenous contexts. At the center of inquiry will be the relationship between analogy and framing—a relationship that exists on at least two levels. First, debates about the value and aptness of any given historical-geographical analogy are framed in certain ways, resting on particular assumptions about the meaning and nature of the concept “analogy.” Second, such analogies themselves are conceptual, interpretive, and narrative frameworks, delimited and constrained by specific geographical and historical demarcations. As is the case with all frameworks,\textsuperscript{158} each of these levels of framing simultaneously (albeit never fully) excludes and includes, opens up and hinders, entrenches and silences. Hereafter, this article will ruminate over these two levels of framing, thereby self-reflexively considering its own method—analogy. In so doing, this article seeks to think not only with but also beyond, or even against, historical-geographical analogies.

More specifically, the discussion that follows problematizes three pertinent framings of analogies: (a) legalistic analogies relating to generational segregation, in which the broader field of child law and policy remains uncontested; (b) rigid conceptualizations of (settler) colonialism in debates on analogies between North America, Australia, and Israel/Palestine; and (c) a tendency, widespread in debates on the (settler-)colonial analogy as well as on other historical-geographical analogies, to reduce

\textsuperscript{157} See supra text accompanying notes 125–29.
analogy to similarity. This conceptual analysis aims to contribute to more nuanced and self-reflexive usage of, and thinking about, analogies such as those under examination.

Moreover, by placing generational segregation within the specific contexts of child law and policy and (settler) colonialism, this Part will throw light on both its idiosyncrasies and its commonalities with each of these contexts. On the one hand, placing generational segregation within these contexts can bring out its connections and parallels with other child-related or settler-colonial practices. On the other hand, this can highlight the specificity of generational segregation—vis-à-vis settler-colonial practices less directly centered around child-adult relations and child-focused interventions less intertwined with settler colonialism.

A. Legalistic Analogies Concerning Generational Segregation

The generational segregation analogy advanced in this article can shed new light on past and present child-related discourses and practices. But, in singling out generational segregation in North America, Australia, and Israel/Palestine, this analogy might also be misunderstood to regard these as dark chapters in an otherwise benign history, or field, of child law and policy. Exemplifying this pitfall are scholarly assertions that Indigenous child removal was “in violation of children’s rights as defined by . . . the United Nations . . . including . . . the Convention on the Rights of the Child.”

Such criticism of generational segregation is formulated in the sort of legalistic or liberal rule-of-law terms that dominate

161. Legalism can be defined as, among other things, the “social ethos which gives rise to the political climate in which judicial and other legal institutions flourish” and also as “the operative outlook of the legal profession.” JUDITH N. SHKLAR, LEGALISM: LAW, MORALS, AND POLITICAL TRIALS 8 (2d ed. 1986). A “liberal rule-of-law ideology” treats law as relatively apolitical and autonomous, as significantly impartial and just (or at least as a lesser evil), and as the ultimate means for progressive social change. CHRIS HUTTON, LANGUAGE, MEANING AND THE LAW 13–15 (2009). For alternative conceptions of law, see, e.g., WALTER
child-centered jurisprudence. In so doing, they might reproduce an insufficiently critical stance toward a sociolegal field deserving of much greater suspicion.

What such a legalistic approach overlooks is that generational segregation in North America, Australia, or Israel/Palestine—notwithstanding its undeniable specificities—typifies rather than deviates from child law and policy in multiple ways. In its modern form, this legal-political field developed, in part, as a means to remove poor and working-class children and civilize them away from their allegedly depraved or unfit parents, often in the name of national interests. Separation was seen as necessary because, without it, parental influences would have undermined the children’s moral instruction. As a growing body of literature has explained, child-related interventions throughout modern times—whether iterated as “child saving,” “child welfare,” “children’s rights,” or “juvenile justice”—have all too often worked to children’s detriment. To date, disadvantaged


164. May et al., supra note 80, at 107–08.

socioeconomic, racial, and ethnic groups continue to be ill-served and disproportionately targeted.\textsuperscript{166} Notwithstanding undeniable transformations, contemporary child law still enshrines principles akin to those invoked in justification of generational segregation,\textsuperscript{167} such as separation, “best interests,” and “rehabilitation.”\textsuperscript{168}

At a more fundamental level, the sociolegal category “child,” in its modern iterations, is premised on, and reinforces, the same essentialism undergirding generational separation: the assumption that all those classified as “children” are one and the same, sharing relatively similar traits (such as plasticity) and needs (such as special treatment). This notion tends to efface the culturally and historically contingent nature of the construct “childhood,” the infinite disparity among “children,” their weighty commonalities with “adults,” and the social forces invested in re-


\textsuperscript{167} See \textit{supra} text accompanying notes 54–75.

producing the seemingly natural child-adult divide. While exceeding the scope of this article, this essentialism has been criticized and deconstructed elsewhere,\(^{169}\) even if legalistic writing largely overlooks these critical insights.\(^{170}\) It is in order to call into question these supposedly self-evident and benevolent orderings and conceptions of childhood and adulthood—as well as to highlight the importance of generation as a social-political unit\(^ {171} \)—that this article employs the potentially explosive phrase “generational segregation.”\(^ {172} \)

Given this, it should come as no surprise that the history of child law and policy is full of examples, beyond the four focused

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172. For other uses of this or similar terminology, see HOWARD P. CHUDACOFF, HOW OLD ARE YOU: AGE CONSCIOUSNESS IN AMERICAN CULTURE (1989); Vanderbeck, supra note 171.
on in this article (concerning the United States, Canada, Australia, and Israel/Palestine), of both generational segregation and attempts at reeducating Indigenous or ethnic minority children. Thus, over a period spanning half a century up to the mid-1970s, hundreds of children of Yenish origin in Switzerland (often described as “gypsies” or “gypsy-like”) were forcefully and systematically removed from their birth families. These children were placed with foster families or in institutions in an effort to assimilate them into dominant society. In the 1950s, Danish authorities, assisted by international charities, took a group of Inuit children from their families in Greenland and placed them with foster families in Denmark to be reeducated as “little Danes”. Most of the children were later returned to Greenland but placed in a special children’s home, where they were discouraged from speaking their Inuit language. During French colonial rule in Morocco, “mixed-race” children were likewise transferred from their purportedly unfit mothers to orphanages, while in the Dutch East Indies (now Indonesia) child protection agencies endeavored “to remove [such children] . . . as early as possible from the influence of native . . . mothers.” Between the fourteenth and seventeenth centuries, boys in the Ottoman Empire were taken from rural Christian families in the Balkans, converted to Islam, and conscripted into military or civil service.

173. Needless to say, the parallels and divergence across or within these and other policies and practices are endlessly complex, and so are the parallels and divergence between them and the four contexts discussed in Part I. On some of the former parallels and divergence, see Andrea Smith, Indigenous Peoples and Boarding Schools: A Comparative Study (2009), http://www.un.org/esa/socdev/unpfii/documents/E_C_19_2009_crp1.pdf; on some of the latter, see Jacobs, supra note 47. The aim here is not to delve into these parallels and divergence but to draw critical insights from this broader, and in some respects ongoing, (hi)story.


178. Gulay Yilmaz, Becoming a Devşirme: The Training of Conscripted Children in the Ottoman Empire, in CHILDREN IN SLAVERY THROUGH THE AGES 119 (Gwyn Campbell, Suzanne Miers & Joseph C. Miller eds., 2009).
In addition, laws and policies encouraging the assimilation or “civilization” of Indigenous or ethnic minority children through boarding schools were put in place across the globe: from Latin America in the nineteenth and twentieth centuries, through colonial Sierra Leone in the nineteenth century and New Zealand in its early days, to the Soviet Union in the 1920s and certain provinces in China from 1949 into the 1980s.\textsuperscript{179} Generational segregation was also imposed on groups other than Indigenous peoples or ethnic minorities. For instance, thousands of Spanish parents who were deemed either politically dangerous or morally or economically deficient are believed to have had their babies taken away and placed with “approved” families for nearly half a century until the 1990s.\textsuperscript{180}

Specifically, North America, Australia, and Israel/Palestine each have wider histories of generational segregation and subjugation through education. Among other things, in North America and Australia, there were other child removals, some preceding the ones on which this article focuses. Among them were removals of Indigenous children in the pre-boarding-school era and removals of children from poor or working-class families.\textsuperscript{181} As a case in point, for nearly eight decades, up until 1929, legally

\textsuperscript{179} SMITH, supra note 173. See also MICHAEL C. COLEMAN, AMERICAN INDIANS, THE IRISH, AND GOVERNMENT SCHOOLING (2009) (comparatively examining the assimilative schooling of Indigenous children in the United States and Irish children under British rule).


\textsuperscript{181} Jacobs, supra note 47, at 206.
authorized charities in the United States transferred an estimated 200,000 to 250,000 children (mostly from impoverished immigrant families who sometimes had to file lawsuits to reclaim the children) for indenture or adoption in faraway parts of the country.\textsuperscript{182} Within North American studies, parallels have also been observed between boarding schools for Indigenous children, contemporaneous industrial and correctional schools for lower-class white children,\textsuperscript{183} and earlier forms of assimilative schooling.\textsuperscript{184}

In Palestine, English missionaries during Ottoman and British rule endeavored to convert local children to Christianity through removal and education.\textsuperscript{185} In the 1940s and 1950s, international Jewish organizations operating in North Africa viewed local Jewish parents as incorrigibly degenerate, made efforts to separate them from their children, and arranged for some children to be put up for adoption.\textsuperscript{186} In 1950s Israel, infants of non-European Jewish immigrants, primarily of Yemenite origin—whom earlier Zionists described as inferior “Arab hybrids”\textsuperscript{187}—were reputedly abducted for adoption.\textsuperscript{188} In

\begin{itemize}
\item \textsuperscript{182} Rebecca S. Trammell, \textit{Orphan Train Myths and Legal Reality}, 5 MOD. AM. 3 (2009).
\item \textsuperscript{183} Milloy, supra note 4.
\item \textsuperscript{184} Woolford, supra note 47.
\item \textsuperscript{187} Id. at 273.
\end{itemize}
addition, Palestinian citizen children in Israel, whose school system is separate from the Jewish one, are required to learn about Jewish values and culture, while their curriculum excludes expressions of Palestinian nationalism and other possible challenges to dominant Zionist narratives.\(^\text{189}\)

Moreover, isolating the four referents of the generational segregation analogy (the United States, Canada, Australia, and Israel/Palestine) from this global context also overlooks the transnational nature of such segregation. Certain forms of generational segregation, such as large-scale child emigration, transnational adoption, and child evacuation schemes and initiatives, are transnational by definition. Examples abound here as well. For about a century, beginning in the late 1860s (a “shameful episode of history,” as British prime minister Gordon Brown would later describe it), government-funded charities dispatched tens of thousands of British children (between 80,000 and 150,000 according to different estimates) to Canada, Australia, New Zealand, and Southern Rhodesia (now Zimbabwe). Most of the children were from poor, primarily working-class households, and many of them have since spoken of the suffering caused by their removal and, in some cases, their subsequent abuse or neglect.\(^\text{190}\)

Irish babies labelled as “illegitimate”, too, were sent by the thousands for adoption overseas between the early 1940s and mid-1960s, mostly to the United States, sometimes without their mothers’ consent.\(^\text{191}\) From 1963 to 1982, French authorities in the Indian Ocean island of Réunion forcibly sent 1,615 children of poor and illiterate parents to France to work on farms or as servants to bourgeois families.\(^\text{192}\) Like all of these, mass child evacuations in perceived welfare emergencies overseas have also


drawn criticism. The largest evacuation, “Operation Babylift”—the airlifting of over 2,500 Vietnamese children to the United States and other countries in 1975—was criticized for “kidnapping” children who could have been better off remaining in their homeland.\(^{193}\)

The transnational character of generational segregation also manifests itself in interconnections between the Indigenous child removal and reeducation policies of the United States, Canada, and Australia. In the late 1870s, Canadian prime minister John MacDonald commissioned Nicholas Davin, a journalist and future member of parliament, to examine the use of residential schools for Indigenous children in the United States. Following meetings with senior U.S. officials and visits to some of these schools, Davin’s highly influential report strongly recommended emulating the neighboring country’s model.\(^{194}\) After continuous visits to the United States until the late 1970s, Canadian officials further suggested adopting key elements of the schooling of Indigenous children across the border. In addition, U.S. and Canadian officials occasionally exchanged ideas about, and teaching materials for, Indigenous boarding schools, and school staff also drew upon the other country’s schools when negotiating with government authorities.\(^{195}\) In Australia, institutions for Indigenous children were managed by the same umbrella churches as in Canada.\(^{196}\)

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More recently, former Canadian prime minister, Stephen Harper, remarked in his public apology that the Indian Residential School system “was infamously said ‘to kill the Indian in the child’” (a saying also quoted in the Israeli Open University course book on genocide, to which Palestinian prisoners have been denied access). While Canadian officials charged with “educating” the Indigenous population did indeed frequently voice this dictum, it actually originated from the United States, where it had been coined by no other than the highly influential Richard Pratt.

The practices and discourses surrounding Indigenous child removal also traversed further, beyond these national boundaries and historical epochs. In North America and Australia, Indigenous child removal largely had legal and philosophical origins traceable to eighteenth- and nineteenth-century Britain. In Canada, it also drew inspiration from Swiss manual labor schools. The use of “before” and “after” photographs to show children’s supposedly successful transformation, a practice honed by British child rescuers, was later used in boarding schools for Indigenous children in North America, as well as

There have also been cross-border links, collaborations, and influences between North American and Australian Indigenous groups. These include Indigenous child welfare organizations and activists, as well as references to overseas Indigenous peoples in past and present Indigenous constitutions and codes. On the former, see Jacobs, supra note 111; Libesman, supra note 112. On the latter, see Kirsty Gover, Inter-Indigenous Recognition and the Cultural Production of Indigeneity in the Western Settler States, in Recognition versus Self-Determination: Dilemmas of Emancipatory Politics 201, at 207–10 (Avigail Eisenberg et al. eds., 2014).
in Indigenous child removal in Australia. At the same time, over in Britain, Native American children were being portrayed as inferior and pitiful, while the press and literature reported: “The American and Canadian governments are trying hard to make . . . wandering [Indian] men into good citizens”; “[t]hey can do little with the grown-up people, but the children they are trying to send to school.”

While street children in Britain were analogized to both “Arabs” and uncivilized indigenes, the British Mandate government in Palestine laid the legal foundations for Israel’s future generational segregation of Palestinians between the 1920s and 1940s. This included introducing the youth court system, various related laws, and an array of emergency regulations, many of which currently remain in force. In fact, more than sixty years before Israel established so-called “military youth courts” as part of the increased generational segregation, the British emergency regulations in Palestine were amended to authorize military courts to act as juvenile courts. It is also from British Mandate legislation that Israeli law borrowed age categories that are still applied (exclusively) to Palestinian child defendants.

206. SWAIN & HILLEL, supra note 66, at 83–85.
207. Id. at 79–81, 98.
210. See supra text accompanying note 34.
212. Juvenile Offenders Ordinance art. 2 (1937) (ISR.).
213. On these statutory categories and their application, see Hedi Viterbo, THE AGE OF CONFLICT: RETHINKING CHILDHOOD, LAW, AND AGE THROUGH THE ISRAELI-
Against this non-exhaustive backdrop, if analogies concerning generational segregation are to fulfill as much of their critical potential as possible, they must have child law and policy within their frame of critique, in plain view. This requires overcoming legalistic tendencies and the common depiction, explicitly or implicitly, of contexts like those on which this article centers as exceptions to an otherwise benign legal and political field. Recent scholarship on Indigenous child removal\textsuperscript{214} represents an effort in this direction, and so do studies pointing to parallels and continuities between present-day law concerning migrant children and past policies pertaining to Native American children.\textsuperscript{215} This conversion, however, is still in its infancy.

\textbf{B. Rigid Conceptualizations of (Settler) Colonialism in Debates About Analogies Between North America, Australia, and Israel/Palestine}

Also pertinent to the present context—along with legalistic analogies—are analogies that invoke “colonialism” generally or “settler colonialism” specifically. These concepts often appear in academic calls for analogies between the United States, Canada, Australia, and Israel/Palestine,\textsuperscript{216} as well as in three scholarly fields highly relevant to this article. First, scholars who develop analogies concerning settler-Indigenous dynamics often do so

\footnotesize{
\textsuperscript{214} Swain, \textit{Enshrined in Law}, supra note 55.
}
while directly or implicitly describing the countries they analogize as either settler\textsuperscript{217} or settler-colonial.\textsuperscript{218} Second, the Israeli Open University course book on genocide attaches the terms “settler” and “colonial” to, and invites related analogies between, the United States, Israel, and Australia.\textsuperscript{219} Finally, cross-national studies of Indigenous child removal have likewise evoked these categories.\textsuperscript{220} In addition, as this article has shown,\textsuperscript{221} these terms have occupied a significant place outside academic circles as well, in discourses ranging from present-day intercountry solidarity campaigns to past political and cultural debates.

Despite inevitably being open to multiple definitions, interpretations, and applications, the terms “colonialism” and “settler colonialism” are often treated as self-explanatory, and their meaning for those debating them hence remains unarticulated, implicit, and unexplored. Two rigid conceptualizations of these categories—common in and beyond debates about analogies between Israel/Palestine, North America, and Australia—warrant critical attention here.

First, despite nuanced writing on the subject,\textsuperscript{222} some responses to such analogies frame the categories “colonialism” and “settler colonialism” as applying to rigid political “units,” or historical “epochs.”\textsuperscript{223} Though these categories may indeed be of more analytical relevance to certain contexts than others, such rigid framing overlooks the traces colonialism—seldom fully obeying such geographical or temporal boundaries—is bound to leave elsewhere. Further, imagining there to be a distinct or sep-
arable colonial order neglects the prevalence, within liberal “normalcy,” of attributes some scholars\textsuperscript{224} associate with colonialism, such as a normalized state of exception, legal indeterminacy, or institutionalized discrimination.\textsuperscript{225} Indeed, generational segregation and related practices bear links and parallels across times and spaces that may not align themselves with some common framings of colonialism.\textsuperscript{226} These include, for example, framings that place Switzerland (whose child policies are mentioned in this article)\textsuperscript{227} outside colonialism due to its lack of former colonies, despite the country’s complicity in past colonialism and its contemporary colonial undertones.\textsuperscript{228} Moreover, such rigid framings also oversimplify colonialism by downplaying its ever-mutating nature and, simultaneously, overstating its all-encompassing domination of “colonial” times and spaces.

A second rigid framing assesses the (settler) colonialism analogy on the basis of a set of supposed similarities to either other settler-colonial instances or some imagined prototype. One encounters this approach in definitional controversies, not explicitly over the meaning of (settler) colonialism itself, but over what characteristics a certain context must possess in order to qualify as either colonial or settler-colonial. For example, some consider settler migration from a single European country to be such a necessary characteristic and argue that, absent this element,

\begin{itemize}
  \item \textsuperscript{226} See supra text accompanying notes 173–213.
  \item \textsuperscript{227} See supra text accompanying notes 174, 202.
  \item \textsuperscript{228} See Patricia Pürtschert & Harald Fischer-Tine, \textit{Colonial Switzerland: Rethinking Colonialism from the Margins} (2015).
\end{itemize}
prestatehood Zionism cannot be regarded as a colonial movement. Others, in contrast, delimit colonialism as including various examples—Zionism being only one—of substantial settler populations that were not nationals of the metropolitan government. Such debates, however, emanate from a particular, checklist-like reduction of (settler) colonialism to questions of similarity.

In contrast, other frameworks may open up alternative ways of engaging with these categories and the analogies that use them. Instead of rigid boundaries or similarities, settler colonialism can be conceptualized around a certain mode of operation. In his widely cited writing on the subject, Patrick Wolfe defined settler colonialism as hallmarked by a “logic of elimination.” By this he referred to the attempt to establish and perpetually sustain a colonial society in the expropriated territory by culturally, socially, or physically destroying the Indigenous population.


231. Patrick Wolfe, Settler Colonialism and the Elimination of the Native, 8 J. GENOCIDE RES. 387, 387–89 (2006). Another key distinguishing characteristic that has been attributed to settler colonialism is a relatively large settler population that seeks to become the majority group. See, e.g., Gershon Shafir, Zionism and colonialism: a comparative approach, in The Israel/Palestine Question: A Reader 78, 80–81 (Ilan Pappé ed., 2d ed. 2007); Daiva Stasiulis
Wolfe conceptualized this settler-colonial mode of operation fairly flexibly, akin to a Wittgensteinian “family resemblance,” by pointing out that it takes on different forms and strategies, varying and potentially evolving over time and space. As he noted, these may include, but are not limited to, child removal and other forms of social fragmentation or cultural assimilation as well as displacement, mass killing, demographic control, and geographical renaming.

Through this alternative conceptual framework, generational segregation can be better contextualized vis-à-vis the broader settler-colonial matrix from which it partly draws its effect and meaning. Like generational segregation, related legal and political mechanisms within this matrix target not necessarily an individual body or subject but the collective subjugated socio-political body. Some of these mechanisms, as noted by Wolfe, do so through a combination of segregation and fragmentation.

Examples include Israel’s recruitment and use of Palestinian informants inside and outside prison, breeding distrust between Palestinians and thereby potentially weakening their collective resistance and solidarity.


234. Wolfe, supra note 231, at 388–89.

235. See supra text accompanying note 234.

236. See Tobias Kelly, In a Treacherous State: The Fear of Collaboration Among West Bank Palestinians, in Traitors: Suspicion, Intimacy, and the Ethics of State-Building 169 (Sharika Thiranagama & Tobias Kelly eds.,
fragmentation has benefitted from the increased generational segregation of Palestinians in Israeli custody: children are denied contact with Palestinian adults—including the adult inmates but also the children’s parents and prospective attorney—which makes it easier for the Israeli authorities to recruit these children as informants.\textsuperscript{237} The separation of Palestinian citizens of Israel who are classified as “security prisoners” from their noncitizen Palestinian counterparts is another practice that amalgamates segregation and fragmentation with the “rehabilitation” discourse: as part of its persistent emphasis on the importance of such separation,\textsuperscript{238} the Israeli supreme court, invoking yet again rehabilitation in the service of segregation, has warned that interaction between these two Palestinian populations would lead to “anti-rehabilitation.”\textsuperscript{239} Moreover, the Israeli prison authorities have reportedly segregated Palestinian inmates into facilities, wards, and cells on the basis of their regions of residence,\textsuperscript{240} while also isolating those whose influence is deemed especially perilous, such as hunger strikers.\textsuperscript{241} All the while, outside prison, in line with what Israeli officials have publicly called Israel’s “separation policy,”\textsuperscript{242} the Gaza Strip has

\textsuperscript{237}See Viterbo, supra note 27.  
\textsuperscript{239}CrimA 4682/11.  
\textsuperscript{241}See Commission Ordinance 04.16.00: Prisoners’ Hunger Strike art. 6a & app. A (May 1, 2001, last amended May 18, 2017) (Isr.).  
been cut off from the West Bank, while the latter has been steadily parcelled into enclaves. The consequent restriction of physical movement takes place in tandem with Israel’s restriction of the movement of imagination—through denial of analogy-laden studies—between different times and places.

Social and territorial disintegration was the lot of North American Indigenous people too, in and beyond the contexts of child removal and boarding schools. Thus, in 1888, a U.S. official described boarding schools as designed to imbue the Indigenous student “with the exalting egotism of American civilization, so that he will say ‘I’ instead of ‘We,’ and ‘This is mine,’ instead of ‘This is ours.’” Richard Pratt set the Indigenous prisoners on whom he experimented with rehabilitation against one another by having them guard, scout out, and punish each other. Later, Pratt likewise had students in his boarding school punished severely by courts-martial made up of their peers. The U.S. General Allotment Act of 1887 and subsequent amendments further fragmented Indigenous communities by breaking up their lands into small, individually owned parcels. Similar

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245. ADAMS, supra note 47, at 22–23.

246. See supra text accompanying note 98.

247. See Witte & Mero, supra note 93, at 388–89, 395. This is further testament to the ties between generational segregation, education, incarceration, and “national security,” as discussed supra text accompanying notes 97–108.

248. See Witte & Mero, supra note 93, at 388–89, 395.

249. See Ralph W. Johnson, Fragile Gains: Two Centuries of Canadian and United States Policy Toward Indians, 66 WASH. L. REV. 643 (1991). In Australia, the non-recognition of native title, the emphasis on biological absorption, and other factors made such practices unnecessary. See ELLINGHAUS,
measures were imposed on Canada’s Indigenous population, albeit without such legislative basis. Counterinsurgency and “national security” — themes discussed in this article in relation to generational segregation — also often accompany settler colonialism and can therefore be part of the contextualization proposed here. Like the treatment of Palestinians by dominant Israeli Jewish society, albeit to a different degree, Canada and the United States have time and again considered their Indigenous populations a “national security” threat. The U.S. Bureau of Indian Affairs — a federal agency in the Department of the Interior — was originally located within the War Department and was run with assistance from military commanders. More recently, lawyers in the George W. Bush administration analogized nineteenth-century Native American tribes to present-day terrorists, and this analogy was later reiterated by the Obama administration and the U.S. Court of Military Commission Review. In the late 1980s, Canada’s Senate Special Committee on Terrorism and Public Safety warned that Indigenous protests and demands for autonomy and compensation in North America would result in domestic terrorism. Recent years have seen Canadian state agencies classifying Indigenous protests over lands and resources as an “extremist” threat.


256. *See Jennifer Adese, Constructing the Aboriginal Terrorist: Depictions of Aboriginal Protestors, the Caledonia Reclamation, and Canadian Neoliberalization, in Engaging Terror: A Critical and Interdisciplinary Approach* 275 (Marianne Vardalos et al. eds., 2009).
to national security and placing protestors under heightened surveillance.\textsuperscript{257}

Despite foregrounding such important phenomena, the alternative conceptualization of colonialism and settler colonialism proposed here cannot escape the potential exclusions and blind spots of these—and all other—categories. Indeed, similar exclusions are inherent to all interpretive frameworks, including, in the present context, the category “childhood” and the method of analogy. Therefore, while it is crucial to problematize the concepts “colonialism” and “settler colonialism,” singling them out would be both analytically naïve and politically questionable.

Moreover, like other modes of control,\textsuperscript{258} (settler) colonialism often depends on denial.\textsuperscript{259} This includes its objection to being named for what it is: (settler) colonialism. This may partly explain the anxieties these terms evoke in debates on analogies between Israel/Palestine, North America, and Australia. To maintain as much of their critical potential as possible, all categories and analogies must be deployed provisionally, with relentless suspicion toward their frames and their often-invisible exclusions, in order to prevent them, as much as possible, from unwittingly stifling critical thinking and action.

\textbf{C. The Reduction of Analogy to Similarity}

The similarity-centered framing of the colonialism analogy\textsuperscript{260} represents a broader tendency, characteristic of public and academic debates, to assess analogies primarily on the basis of whether their referents evince “sufficient similarity.” This prevalent reduction of analogy to similarity, however, can be called


\textsuperscript{259} See, e.g., \textsc{Walter L. Hixson}, \textit{American Settler Colonialism: A History} 11-13 (2013).

\textsuperscript{260} On this framing of the colonialism analogy, see supra text accompanying notes 222–30.
into question on at least three counts, each of which warrants an alternative discursive framework such as the one provided above—an alternative framework that would evaluate analogies not (only) on the complicated grounds of similarity but in view of what can be gained or lost by deploying them.

First, though “analogy,” like all terms, offers itself to a variety of definitions (none of which is “truer” than others), believers in conceptual distinctions may nonetheless treat it as distinguishable from other, related concepts. In this line of thinking, if “equation” can be crudely defined as suggesting sameness; “comparison” as either pointing to or assessing similarity; and “juxtaposition” as either highlighting contrasts or inviting comparison; then what may set “analogy” apart is its presumption of difference between its referents. This is the difference analogy seeks to transcend, but not to deny, as it discerns sameness. In large part, then, it is this premise of analogy—the assumption that the parallels in question lie in otherwise dissimilar sites—which renders historical-geographical analogies as stimulating and contentious as they tend to be. Thus conceptualized, analogy is predicated on and designed to see beyond both difference and sameness: it presupposes difference, likens across this difference, but all the while acknowledges and leaves difference in place.

If this conceptual distinction is adopted—provisionally and strategically—then in denoting both similarity and difference, historical-geographical analogies can be seen as potentially serving two functions at once. On the one hand, by suggesting commonality between seemingly unparalleled social settings, counter-dominant analogies can challenge a political entity’s self-image—be it a sense of national exceptionalism, for example, or a country’s self-affiliation with certain political configurations and self-distancing from others. On the other hand, by

261. See supra text accompanying notes 231–57.
262. Cf. Schleifer, supra note 152; Bannet, supra note 152.
265. See Olwan, supra note 119.
simultaneously acknowledging the inevitably infinite particularity of each of its referents, an analogy can destabilize simplistic characterizations of phenomena as either exemplary or exceptional. In this and other regards, analogical reasoning can already be specific, though it may seem to aspire to generalization.

Moreover, in the process of designating certain themes as similar, such analogies can also indicate their varying manifestations and uses, even where the aim is not to provide a systematic comparative analysis. As a case in point, the generational segregation analogy established in this article can point to significant variations, three of which have already become evident in some of the above quotes. First, Israeli advocates of generational segregation lack the assimilationist rhetoric of their North American and Australian counterparts. This is notwithstanding the fact that in some other contexts the desire for ethnic purity has not been exclusive to Israel/Palestine, and that a few exceptional examples of Zionist assimilationism can be found elsewhere. Second, for the most part, Australia’s focus was on “breeding out the color” of mixed-race children, whereas in the other three countries the primary concern has generally been

266. Wolfe’s conceptualization, discussed supra text accompanying notes 231–35, enables seeing elements such as assimilation—which is absent in the generational segregation of Palestinians—as “one of a range of strategies of elimination that become favored in particular historical circumstances” rather than as “an invariable concomitant of settler colonialism.” But see Wolfe, supra note 231, at 400–01.

267. See, e.g., HARRIS-SHORT, supra note 170, at 24–25; JACOBS, supra note 47, at 68–70.

with social rather than biological influences.\textsuperscript{269} Third, the objectives of generational segregation concerning the adults from whom the children were removed in North America (preemptive counterinsurgency) were different from those in Israel/Palestine (legitimizing the curtailment of rights).

The generational segregation analogy intimates a myriad of other differences. One of these is that the Israeli legal system, though preoccupied with the physical appearance of Palestinian child detainees in other circumstances,\textsuperscript{270} has shown none of the interest of either North American or Australian authorities in the clothing and physicality of the separated children.\textsuperscript{271} There is also an important disparity in the scope and length of generational segregation. Among other things, in Australia, such separation was generally meant to be permanent, while being temporary in the other countries; Australian authorities typically sought to prevent all contact between the segregated children and their families, whereas elsewhere such contact was normally allowed, albeit to considerably varying degrees;\textsuperscript{272} and the Palestinian children in Israeli custody are usually older, and are separated for shorter periods,\textsuperscript{273} than their North American—and even more so their Australian—counterparts.\textsuperscript{274} In addition, in North America and Australia alike, the policies, practices, rationalizations, and scope of generational segregation varied from

\textsuperscript{269} ADAMS, supra note 47, at 52–53; Jacobs, supra note 47, at 204–05; James T. Carroll, \textit{The Smell of the White Man Is Killing Us: Education and Assimilation Among Indigenous Peoples}, 27 U.S. CATH. HISTORIAN 21,45–46 (2009); Manne, supra note 47, at 221–22, 228, 235; ELLINGHAUS, supra note 205. \textit{But see} WOOLFORD, supra note 47, at 178, 253–56 (discussing attempts in the United States to sift out potential students who were already of diluted “Indian blood,” whose absorption into the dominant society, it was assumed, would happen naturally).

\textsuperscript{270} See Viterbo, supra note 213, at 144–47.

\textsuperscript{271} See ADAMS, supra note 47; Jacobs, supra note 47, at 215–17.

\textsuperscript{272} See ADAMS, supra note 47; Jacobs, supra note 47, at 215–17.

\textsuperscript{273} Palestinian children in Israeli custody are mostly sixteen or seventeen years of age, and their average prison sentence is about eight months, sometimes in addition to their detention period. See Viterbo, supra note 27. Under Israeli law, the age of criminal responsibility is twelve years. See Viterbo, supra note 213.

\textsuperscript{274} See Jacobs, supra note 47, at 221–22; WOOLFORD, supra note 47.
one region or state to another and changed over time.275 The further the generational segregation analogy is pursued, the more such disparities may come to the fore.

A second challenge to the prevalent notion that “insufficiently similar” referents defy analogy has to do, more fundamentally, with the bilateral relationship between analogy and resemblance. Analogies do not simply identify preexisting parallels. Instead, they are among the conceptual frameworks that inform whether, and to what extent, phenomena are deemed alike in the first place. To become visible, legible, and meaningful, similarity and dissimilarity partly depend on the analogies they are often assumed to precede.276 For example, by tying separation to incarceration and “national security,”277 the generational segregation analogy does not simply capture, but may actually alter, the extent to which Palestinian children’s separation in Israeli custody is perceived as similar to that of their Indigenous counterparts in North America and Australia. Accordingly, the more an analogy dominates a discursive field, the more it can make certain “parallels” or “differences” appear self-evident, while potentially obscuring or discounting alternative analogies—alternative structurings of similitude and disparity. If violence can be broadly defined as the preclusion of possibilities and potentialities,278 then, in these and other respects, analogy and violence seem inextricable from one another. Deploying an analogy, as well as avoiding an analogy, potentially exclude certain ideational frameworks.

Finally, another risk—which political activism runs when similarity becomes its basis—is making commonality a prerequisite for compassion and action and thereby eroding interest in, or sympathy for, the plight of others that either seem unparalleled or possess less visible parallels.279 This is an ever-present ethical

277. See supra text accompanying notes 97–108.
279. For a similar argument, see Jodi Dean, Solidarity of Strangers: Feminism After Identity Politics (1996).
challenge for solidarity campaigns that revolve around inter-group resemblance, such as those analyzed in this article. The prevalent reduction of analogy to similarity thus ignores analogy’s predication on difference, overlooks analogy’s influence on whether its supposedly preexisting referents are deemed alike in the first place, and risks making similarity a prerequisite for solidarity.

CONCLUSION

This article has provided three complementary readings of the relationship between analogy and generational segregation, sharing a common substantive and methodological point of departure: Palestinian prisoners’ engagement, through studies now prohibited by the Israeli government and courts, with analogy-based critiques and the issue of Indigenous child removal.

First, using analogy, the article has shone a spotlight on heretofore unexamined parallels, connections, and continuities between the removal of Indigenous children to boarding schools in the United States and Canada, Australia’s Aboriginal “stolen generations,” and the separation of Palestinian children and adults in Israeli custody. Across these different contexts, generational segregation, while anchored in law and couched in a language of benevolence and legalism, has severed these children’s intergenerational ties and exposed them to abuse. Its targets have been those on both sides of the generational divide: not only the children concerned, who have been deemed highly malleable and hence susceptible to intervention, but also their adult counterparts. In North America and Australia, generational segregation was advocated as a counterinsurgency measure against Indigenous adults, while Israeli authorities have invoked the presumed irredeemability of the separated Palestinian adults as grounds for retracting their entitlements (including the above studies). This is but part of broader connections between generational segregation, incarceration, education, and “national security.” Alongside the cross-national links generational segregation involved at the time and its lasting legacies in North America and Australia, this analogy thus highlights its reemergence in the form of analogous practices in Israel/Palestine.

280. On these solidarity campaigns, see supra text accompanying notes 118–24.
Second, to better contextualize the analogies Palestinian prisoners explored and the generational segregation analogy put forward here, this article has investigated the ubiquity and multiple roles of related analogies in relevant discourses surrounding North America, Israel/Palestine, and Australia. Under examination have been analogies that, like the analogies in the course books to which Palestinian prisoners have been denied access, invoke Indigenous-settler relations. Such analogies have figured prominently in a range of sites spanning two centuries: from contemporary scholarly debates to statements, past and recent, by political activists, state politicians, soldiers, judges, and lawyers. Across this discursive tapestry, opposing sides of the debate have used historical-geographical analogies, occasionally using the very same analogy for conflicting objectives. This indicates that the generational segregation analogy is also inevitably open to competing interpretations and applications and should therefore be understood in a more nuanced light than might often be the case.

Third, further theorizing analogy, the article has provided a critical analysis of three relevant framings of analogies: (a) legalistic criticisms of generational segregation, which portray it as a breach of legal norms; (b) rigid conceptualizations of colonialism and settler colonialism in debates about analogies between North America, Australia, and Israel/Palestine; and (c) the tendency—common in and beyond the present context—to equate analogy with similarity. Starting with legalistic criticisms, this article has criticized them for portraying generational segregations, such as those under examination, as exceptions to an otherwise benign legal field of child law and policy, thus leaving this field and its norms uncontested. In so doing, this legalistic framing neglects not only the reliance of generational segregation on law but also its resonance with broader characteristics of modern child law and policy. As discussed in this article, countless other child-focused interventions across the world have worked to children’s detriment, further disempowering already disadvantaged groups, while also reproducing the same essentialism undergirding generational segregation—the conception of “children” as a distinct and fundamentally uniform group. More specifically, North America, Australia, and Israel/Palestine, as well

281. On the centrality of law for generational segregation in the contexts discussed in Part I, see supra text accompanying notes 54–55.
as a host of other places, have witnessed additional generational segregation and attempts at mass reeducation. Moreover, in isolating specific generational segregations from this global backdrop, legalistic criticisms neglect the transnational nature of certain forms of such segregation, as well as the cross-national movement of related discourses and practices.

As for debates that rigidly conceptualize “colonialism” or “settler colonialism,” this article has called into question two such rigid conceptualizations in particular. The first demarcates colonialism along strict historical, geographical, or political lines. Such conceptualization has several pitfalls: it neglects colonialism’s traces outside these imagined boundaries, downplays the prevalence of supposedly colonial phenomena within liberal “normalcy,” and overlooks colonialism’s complex and ever-mutating nature. The second rigid conceptualization reductively assesses colonialism or settler colonialism through a checklist of similarities, be they similarities between different cases or between a given case and some presumed prototype. As an alternative to such conceptual rigidity, this article has suggested that a flexibly defined settler-colonial mode of operation sheds light on important political and legal forces that complement, parallel, and inform generational segregation. Specifically, like generational segregation, such practices fragment subjugated groups and position them as a national security threat.

Shifting the discussion to a wider conceptual level, this article has criticized the widespread tendency to equate analogy with similarity. This reductive framing has at least three perils: it neglects the possibility of seeing analogy as predicated on difference; disregards the bilateral dynamic whereby an analogy’s referents partly depend on the analogy itself to be considered alike in the first place; and risks making commonality a prerequisite for empathy and political action.

Together, the three intertwined perspectives of this article bring into conversation bodies of scholarship that have so far remained largely disconnected, dealing with a wide range of topics: the use of analogy as both an interpretive and rhetorical device.

282. The relevance of the terms “colonialism” and “settler colonialism” stems from their prominence in various discourses and analogies discussed in this article, as detailed supra text accompanying notes 216–21.
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in law and in general; Indigenous child removal in Australia, Canada, the United States, and cross-national or comparative studies thereof; discourses and practices concerning Palestinian children, and Palestinian intergenerational interactions, in Israeli custody; the legal and social construction of childhood and, finally, colonialism, particularly settler colonialism. Rather than rehashing this literature by attempting to exhaust any of these subjects separately, this article has placed them within a single framework in order to canvass their interrelationship holistically.

This holistic analysis is of both methodological and substantive consequence. Methodologically, it employs analogy both as a mode and an object of inquiry: Part I of this article used the method of analogy to shed new light on generational segregation, while Parts II and III put analogy itself on trial, examining its effects, potential, and pitfalls. This unique approach, or method, thus simultaneously brings to light and problematizes previously unexamined connections, parallels, and continuities. It foregrounds the political and cultural nature of analogies, and is

283. See, e.g., Berger, supra note 153; Brewer, supra note 153; Sunstein, supra note 153.
284. See, e.g., KHONG, supra note 154; SCHLEIFER, supra note 152; Agnew, supra note 152; Bannet, supra note 152.
285. See, e.g., GENOCIDE AND SETTLER SOCIETY, supra note 2.
286. See, e.g., MILLER, supra note 4; MILLOY, supra note 4.
287. See, e.g., ADAMS, supra note 47; FEAR-SEGAL, supra note 92; Trafzer et al., supra note 69.
288. See, e.g., CHURCHILL, supra note 4; JACOBS, supra note 47; WOOLFORD, supra note 47; Jacobs, supra note 47, at 203.
289. See Veerman & Waldman, supra note 39; Viterbo, supra note 213; Viterbo, supra note 27.
290. See, e.g., CHUDACOFF, supra note 172; PLATT, supra note 163; Clarke, supra note 163; Barnes, supra note 165; Hanson, supra note 165; Kline, supra note 165; Monk, supra note 165; Stainton-Rogers, supra note 165; Triger, supra note 165; White, supra note 165; Reynaert et al., supra note 165; AN INTRODUCTION TO CHILDHOOD STUDIES, supra note 169; BURMAN, supra note 169; JAMES ET AL., supra note 169; JENKS, supra note 169; KENNEDY, supra note 169; MONTGOMERY, supra note 169; Ainsworth, supra note 169; Rosen, supra note 169; Kelly, supra note 169.
291. See, e.g., HUSSAIN, supra note 224; STOLER, supra note 177; Shafir, supra note 231.
292. See, e.g., VERACINI, supra note 216; VERACINI, supra note 231; Stasiulis & Yuval-Davis, supra note 231; Wolfe, supra note 231.
293. The crude distinction between methodology and substance is used here merely for analytical purposes.
also itself, no less importantly, a statement about method: a statement about the need to maintain a critical distance from, and self-reflexivity about, one’s method, and also about how methods—such as analogy—are neither separate from nor external to their field of inquiry.

Substantively, this framing brings to the fore two significant links between analogy and generational segregation. First, analogy can offer Palestinian inmates a political space unenclosed by the physical and temporal boundaries of Israeli prison.294 Inter-generational knowledge transfer potentially serves a similar function for these Palestinians, as it has done for Indigenous people in North America and Australia. Israel’s restriction of analogy-filled studies, and its growing separation of Palestinian child and adult inmates, must therefore be analyzed in conjunction with one another, as two mutually complementary developments. Second, both analogy and generational segregation are key cornerstones of childhood. Through analogy, the category “childhood” has been extended well beyond those who are legally classified as children. Not uncommonly, women, non-white groups,295 the elderly,296 the Global South,297 and others who are formally adults but deemed short of adult faculties, have been infantilized—analogized to children. These analogies instigate and mutually rely on institutional generational segregation as well as spatial transgression. In modern times, those classified as children (and to an extent those who are considered childlike) have been relegated away from the “normal” adult sphere, purportedly to shield them from it, or it from them. Spatial transgressions, such as an unaccompanied adult in the playground or the joint incarceration of children and adults, are seen as both distressing and requiring stricter separation. Given their major and interrelated roles with regard to childhood, critiquing each of these—analogy and generational segregation—is valuable for thinking critically about the other, as well as about childhood.

294. See supra text accompanying note 26.
This article has thus sought to harness analogy to innovatively investigate the ongoing history of generational segregation, while also maintaining a critical distance from analogy, tracing analogy’s political baggage and historical specters, and problematizing its potential exclusions and blind spots. By shedding new light on generational segregation through analogy while critiquing analogies in light of discourses and practices related to such segregation, a central aim of this article has thus been to fundamentally challenge and reinvent the terms and frameworks available for thinking about issues at the intersection of generational segregation and historical-geographical analogies.