UNIVERSITÀ DEGLI STUDI DI PADOVA

DEPARTMENT OF POLITICAL SCIENCE, LAW,
AND INTERNATIONAL STUDIES

Master's degree in
Human Rights and Multi-level Governance

Canada: Government Sponsored Crimes At the Expense of the Athabasca Chipewyan First Nation

Supervisor: Professor Paolo De Stefani

Candidate: Isabella Pacchiano

Matriculation No. 1216149

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Abstract

This research assesses the impacts of oil operations on the environment and on the Athabasca Chipewyan First Nation, a Canadian Indigenous group in Northern Alberta. The overarching question of this research is, '*How does oil extraction impact the Athabasca Chipewyan First Nation?*' In order to address this question, a mixed methods approach is employed which explores both bibliographic and qualitative methodologies. This research establishes international and national legal frames in order to contextualize realties faced by the Athabasca Chipewyan First Nation. Subsequently, it builds a case on oil operations in Northern Alberta which works to demonstrate the extent to which oil operations violate human rights and environmental preservation. Such an output plays a in the potential future of human and environmental protection.

Abbreviations

ACFN	Athabasca Chipewyan First Nation
CAPP	Canadian Association of Petroleum Producers
CBD	Convention on Biological Diversity
CI	Carbon Intensive
GA	General Assembly
GHG	Greenhouse Gasses
ICC	International Criminal Court
ICCPR	International Covenant on Civil and Political Rights
IPCC	Intergovernmental Panel on Climate Change
MAC	Mining Association of Canada
ODS	Ozone Depleting Substances
OHCHR	Office of the United Nations High Commissioner for Human Rights
RAMP	Regional Aquatics Monitoring Program
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNCC	United Nations Climate Change
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples
UNEP	United Nations Environment Programme
UNFCCC	United Nations Framework Convention on Climate Change
WBNP	Wood Buffalo National Park
WMO	World Meteorological Organization

Introduction

This research discusses the Athabasca Chipewyan First Nation (ACFN), a Canadian indigenous group who throughout history have experienced many human rights violations. The aim of the research is to bring awareness to an underserved indingeous group in north-eastern Alberta, Canada. Due to the terms by which Europeans colonized Canada, the ACFN was party to various forms of colonization which affected the group in the past yet, remains in the present. Colonialism has perpetuated itself within modernity through multi-levels of governance, and has acted as a barrier to the ACFN to receive a semblance of societal equality. The issues pertaining to the ACFN are complex, as there is not one perpetrator, rather, many; and issues were not perpetrated in one time period, however, throughout history and into modernity. Unfortunately, due to the nature of colonialism, its perpetuation is evident within Canadian culture, governance, social and economic spheres, as well as, corporate and institutional spheres.

The body of work will begin with a two part legal frame, the first is the international component and the second, the national. The international component assesses international humans rights instruments which are legally binding and non-binding. Subsequently, the national component is made up of two parts, the first analyzes the legal sources ratified by Canada, and in force in Canada; and the second conducts a study of Canadian legal sources from historic to modern contexts. The legal frame aims to form a foundation in order for the remainder of the research to develop with coherence.

Additionally, it will establish a case study of Alberta through which the oil operations[1] and some damages they create will be discussed. Oilsands, or tarsands in northern Alberta are fast growing and destructive in nature. The section will discuss various impacts associated with oil operations in the region. It will also discuss the proximity of the ACFN to oil operations and what this means for community members living upstream from the industrial oil activities. Subsequently, the role of the oil industry in lobbying the federal and provincial branches of government will be assessed, as well as, what environmental groups have done to counter such actions. It will also present potential issues related to proposed increases in oil production as a response to sanctions associated with the Ukraine conflict.

This research will also present recommendations which reflect some findings and opinions of the author. Issues faced within modernity by the ACFN have been complex and arguably do not have a fixed method of address, or redress. Therefore, potential solutions presented are among many approaches to issues presented within this research and do not claim to be exhaustive. The ambition of any such recommendations is for the ACFN and other indigenous communities in Canada, and around the world, to attain some semblance of appropriate recognition for what has been imposed upon such peoples throughout history and into modernity. Tasking indigenous peoples with a fight of both protecting the rights promised to them, and protecting the lands they are connected to is not a fair clash. Those withholding indingeous peoples rights and polluting the environment are the very actors who are endeavoured with the task of protecting indigenous peoples.

The overarching aim of this research is to address the following question: *"How does oil extraction in Northern Alberta, Canada impact the Athabasca Chipewyan First Nation?"*

[1] Oil meaning bitumen, crude oil.

Methodology

In order to address the research question, a mixed methods approach is used within this research, it employs both bibliographic and primary data collection. The bibliographic approach was accomplished over the span of one year, from June 2021-June 2022 it began with the University of London where research was conducted on a similar topic. The bibliographic data consists of pre-existing literature and establishes a legal frame, as it pertains to the contextualization of international and national issues. It will also be used to build a case study of Alberta in order to illustrate modern issues experienced by the ACFN.

The primary data collection was in the form of interviews, interviews were held with leading experts in multidisciplinary fields, and they were all held over the phone, or online. Each interview lasted from half an hour to one hour and a half. Interview questions varied depending on the participant's field of expertise. All interview questions aimed to address this research's overarching questions. Interviews were semi-structured, conversations were based on specific categories within this research, however, a list of pre-curated research questions were not asked to each participant. This method of interviewing was conversation based, and reflects the value the researcher places on story and individual experience, perception and perspective. It will take a sample of 5 interviews (out of 11 conducted in 2021) to accurately convey the testimonies of whistleblowers, and to fill in gaps of the Case of Alberta.

The Legal Frame: International and National

This section introduces a legal framework that hosts two components of analysis, the International and National. The first to be discussed is the international component which establishes a framework of international legal instruments to be used as tools of analysis to contextualize the practical implementation of law in Canada. This research will use legal instruments discussed within the legal framework to address the research question, '*How does oil extraction in Northern Alberta, Canada, impact the Athabasca Chipewyan First Nation?*' The two main legal fields assessed within this framework are human rights law and environmental law, along with their legal mechanisms and instruments. In addition, sources of international law have been curated to address aspects of the research question, and such elements include: fundamental human rights; indigenous peoples' rights; and the conservation of the Earth, biological diversity, and the atmosphere.

The first of two components of the legal framework established by international law sources will be followed by the second national component. The national framework assesses the relation between national Canadian and international legal instruments. It acts as a comparative analysis to establish context for the case of Alberta, which illustrates how international law is practically implemented in the specific national setting of Northern Alberta. The national component of the legal framework will introduce Canada's methods of jurisprudence and its legislative bodies. The national contextualization was ordered as second to the international section within this body of research to avoid allowing the reader to form a biased conclusion. The implementation of two components within the legal framework is a response to the necessity of addressing the need for cohesive mechanisms of law within multiple levels of governance which transcend frontiers.

International Component: Sources of International Law

The lion's share of international human rights laws have been established among the international community in a participatory fashion in response to historical events of violence. For example, the Paris Conference of 1919 offered a time and space for the international community to gather to form peace agreements. The conference's outcome was the conclusion of World War I and the creation of the League of Nations (LoN) through the *Treaty of Versailles*, which entered into force on January 10, 1920. The predecessor of the United Nations (UN), the League of Nations, began activities after all parties had ratified the Treaty and therefore began official functions on January 10, 1920 (UN, 2022). The conference, Treaty, and creation of the League of Nations aimed to establish terms of peace within the international community. However, ten years following the establishment of the LoN, three countries of significance left the LoN: Germany, Italy, and Japan. Moreover, at the beginning of World War II (1939), many countries deserted the LoN and exchanged their membership for methods of conflict, which states were accustomed to before being party to the LoN.

Another example of establishing international law sources in post-conflict circumstances can be observed through the formation of the United Nations (UN, 2022). In 1945, the governments of 50 Nation-States formed the UN, which continues to act as an international organization that aims to deter war, protect human rights, uphold justice, advance global standards of life and offer a forum to member states (UN, 2015). International human rights instruments play a crucial role within national bodies of governance. The following section will respectively discuss the constitution, jurisprudence, governance of Canada, and various human rights instruments. Introduced international human rights instruments will be paralleled to the national context of Canadian governance in practice. National government bodies relevant to the argument of this research include Federal and Provincial government bodies.

Relevant legally-binding international human rights instruments which will be paralleled to national government practice include: *the United Nations Charter*; *International Covenant on Civil and Political Rights*; *International Covenant on Economic, Social and Cultural Rights*; *C169 - Indigenous and Tribal Peoples Convention, 1989 (No. 169); C107 - Indigenous and Tribal Populations Convention, 1957 (No. 107); International Convention on the Elimination of All Forms of Racial Discrimination; Convention on the Elimination of All Forms of Discrimination Against Women; Convention on the Rights of the Child; Convention on the Prevention and Punishment of the Crime of Genocide; Rome Statute of the International Criminal Court; Montreal Protocol; Kyoto Protocol; Convention on Biological Diversity;* and the *Convention on Wetlands of International Importance Especially as Waterfowl Habitat.*

Subsequently, non-binding international human rights instruments which will be discussed against national government action or inaction include *the Universal Declaration of Human Rights*; *United Nations Declaration on the Rights of Indigenous Peoples; Declaration on the Granting of Independence to Colonial Countries and Peoples; United Nations Framework Convention on Climate Change;* and the *Paris Agreement*. As well as potential additions to international human rights instruments to be introduced includes *Ecocide*, as a proposed amendment to the Rome Statute of the International Criminal Court.

Charter of the United Nations

The *Charter of the United Nations and Statute of the International Court of Justice* (UN Charter) is the document which founded the United Nations (UN). The UN Charter was signed on June 26, 1945, and

entered into force on October 24, 1945 (UN Charter, 1945). The UN Charter "is an instrument of international law, and the UN Member States are bound by it" (UN, 2015). Article 7 of the charter makes provisions for the six principal organs of the United Nations which include "a General Assembly (GA), a Security Council, an Economic and Social Council, a Trusteeship Council, an International Court of Justice and a Secretariat" (UN, 2015). The General Assembly consists of representatives of UN Member States, its purpose is to act as the "chief deliberative, policymaking and representative organ of the United Nations" (UN, 2011). It plays a key role in offering a space to member states to deliberate and sets standards in response to international issues covered by the UN Charter. The Charter acts as the foundational document of the international law sources within this framework, as well as, within the preamble of international law sources referenced.

Universal Declaration of Human Rights

Building upon the foundations of the UN Charter, the *Universal Declaration of Human Rights* (UDHR), passed by the General Assembly on December 10, 1948, acts as a pillar for the universal protection of fundamental human rights (UDHR, 1948). Although all articles within the UDHR are fundamental, those which play key roles in contextualizing this research are outlined in the following paragraph. Article 1 establishes the foundation that all human beings are born into freedom and equality "in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood" (UDHR, 1948). To further discuss every person's rights and freedoms, article 2 of the UDHR "without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status" (UDHR, art. 2, 1948).

The provision of the right to life can be found in article 3. Subsequently, the declaration establishes the membership of human beings within the context of society:

> *Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.*
>
> (UDHR, art. 22, 1948)

International Covenant on Civil and Political Rights

The *International Covenant on Civil and Political Rights* (ICCPR) was adopted on December 16, 1966, by the General Assembly resolution 2200A(XXI), and entered into force on March 23, 1976 (ICCPR, 1966). The covenant aligns itself with the UN Charter and the UDHR, the principles of which are reflected throughout the document. The ICCPR is a legally-binding covenant, its implementation is monitored by the Human Rights Committee in accordance with Article 28 of the ICCPR (ICCPR, art. 28, 1966; Willmott-Harrop, 2001; COE, 2016).

Relevant articles to this framework include: article 1 paragraph 1; and article 2 paragraph 3 section a. Self-determination is established within the ICCPR, it states that "[a]ll peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development" (ICCPR, art. 1 para. 1, 1966). States party to the ICCPR take on the responsibility outlined "[t]o ensure that any person whose rights or freedoms as herein recognized are

violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity" (ICCPR, art. 2 para. 3 section a, 1966).

International Covenant on Economic, Social and Cultural Rights

The *International Covenant on Economic, Social and Cultural Rights* (ICESCR) was adopted on December 16, 1966, by the General Assembly through resolution 2200A (XXI), and came into force on January 3, 1976 (ICESCR, 1966). The covenant recognizes the UN Charter and the UDHR, it reiterates the rights of every human being to freedom, and conditions by which one can experience such freedom. The first article of the covenant provides that everyone has the right to self-determination, as such, all people have the freedom to "determine their political status and freely pursue their economic, social and cultural development" (ICESCR, art. 1 para. 1, 1966). It also presents the free choice of all people to "freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence" (ICESCR, art. 1 para. 2, 1966). Additionally, the first article establishes that states party to the covenant, are obligated to promote and respect the right to self-determination (ICESCR, art. 1 para. 2, 1966).

State Parties to the covenant took on the responsibility to guarantee that rights outlined within the covenant need to be practiced without any form of discrimination (ICESCR, art. 2 para. 2, 1966). The covenant also recognizes the right everyone has to favourable work conditions, meaning a safe and healthy work environment and adequate remuneration for work (ICESCR, art. 7 para. A section ii, and para. B, 1966). Additionally, it lays out every person's right to an appropriate living standard and the improvement of such a standard, a living standard includes the provisions of food, clothes and housing. The covenant obligates states party to the covenant to ensure this right is implemented within their state (ICESCR, art. 11 para. 1, 1966).

States parties to the covenant commit to the inherent human right to freedom of hunger, as such, measures established to protect such a right include: improvements to producing, conserving and distributing food; and considering issues of food importation and exportation. These measures both adopt advances in science, technology, nutrition, development and equitable global food distribution (ICESCR, art. 11 para. 2 sections a & b, 1966). The covenant also expresses states parties' acknowledgement of everyone's right to the highest possible standards of physical and mental health (ICESCR, art. 12 para. 1, 1966). Moreover, it outlines measures for the assurance of such standards to be reached, these include the necessary actions to reduce the rate of stillbirths and infant mortality; ensure the healthy development of the child; and improve each aspect of the environment and industry to maintain health and prevent disease (ICESCR, art. 12 para. a & b, 1966). The right to take part in cultural life is identified within the covenant, as well as the fact that state parties to the covenant recognize this right for everyone (ICESCR, art. 15 para. 1 section a, 1966).

United Nations Declaration on the Rights of Indigenous Peoples

The *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP) was adopted by the General Assembly on September 13, 2007 (UNDRIP, 2007). It aligns itself with the UN Charter and affirms that "indigenous peoples are equal to all other peoples while recognizing the right of all peoples to be different, to consider themselves different, and to be respected as such" (UNDRIP, Preamble, 2007). It affirms that

diversity is contributed to by all peoples which have established the uniqueness of humankind, denounces racism, and recognizes that indigenous peoples are entitled to all human rights recognized in international law without discrimination. Furthermore, it states concern over historic realities of injustice experienced by indigenous peoples as it pertains to the colonization of indigenous peoples, as well as, land, territory and resource dispossession which have acted as barriers to indigenous peoples' rights to self-determination and development. It recognizes the urgency in protecting indigenous peoples' rights underpinned by agreements and treaties with nation-states. Such rights include indigenous self-determination which can act as a tool to aid in ending discrimination (UNDRIP, 2007).

The UNDRIP acknowledges that "respect for indigenous knowledge, cultures and traditional practices contributes to sustainable and equitable development and proper management of the environment" (UNDRIP, Preamble, 2007). It also recognizes the rights extended by international legal instruments including: the Rights of the Child; the Charter of the United Nations; the International Covenant on Economic, Social and Cultural Rights; the International Covenant on Civil and Political Rights; and the Vienna Declaration and Programme of Action (UNDRIP, 2007). The Vienna Declaration recognizes that indigenous peoples have the right to "the development and plurality of society and strongly reaffirms the commitment of the international community to their economic, social and cultural well-being and their enjoyment of the fruits of sustainable development." (Vienna Declaration and Programme of Action, 1993).

A number of UNDRIP articles will be presented throughout this research which offers national context within international agreements. Among the articles of the UNDRIP which will be presented throughout this research, the following articles are necessary to build a relevant framework to address the research question. The declaration explains indigenous peoples' rights to political and socio-economic activities and redress. This is in part established by the right to create and maintain indigenous "political, economic and social systems or institutions, to be secure in the enjoyment of their own means of subsistence and development, and to engage freely in all their traditional and other economic activities" (UNDRIP, para. 1, 2007). As well as through the right to fair redress should indigenous peoples be "deprived of their means of subsistence and development" (UNDRIP, art. 2, 2007).

The UNDRIP also discusses the right to development and claims that indigenous peoples' right to development extends to the involvement in the implementation process of socio-economic programs including health and housing (UNDRIP, art. 23, 2007). Indigenous peoples' traditional practices are protected within Article 24, Paragraphs 1 and 2:

> *(1) Indigenous peoples have the right to their traditional medicines and to maintain their health practices, including the conservation of their vital medicinal plants, animals and minerals. Indigenous individuals also have the right to access, without any discrimination, to all social and health services.*
>
> *(2) Indigenous individuals have an equal right to the enjoyment of the highest attainable standard of physical and mental health. States shall take the necessary steps with a view to achieving progressively the full realization of this right.*
>
> (UNDRIP, 2007)

The aspects of traditionalism and traditional practices are provided for within the UNDRIP, through Article 25. The article provides that indigenous peoples have the right to keep and build their relationship with traditional elements:

> *Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.*
>
> (UNDRIP, art. 25, 2007)

Additionally, the declaration outlines the right of indigenous peoples to traditional lands, territories and resources; autonomy over such areas; and legal recognition of the use of areas by the nation-state. This article aids in the identification of historical colonialism and provides for the potential aspects of decolonization.

> *(1) Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.*
>
> *(2) Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.*
>
> *(3) States shall give legal recognition and protection to these lands, territories and resources. Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned.*
>
> (UNDRIP, art. 26 para. 1, 2 & 3, 2007)

The right extended to indigenous peoples with regard to redress is established in Article 28, Paragraphs 1 and 2. Redress is inclusive to restitution and when restitution is not possible, "just, fair and equitable compensation, for the lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, taken, occupied, used or damaged without their free, prior and informed consent" (UNDRIP, art. 28 para. 1, 2007). Furthermore, compensation is to be extended as "lands, territories and resources equal in quality, size and legal status or of monetary compensation or other appropriate redress" (UNDRIP, art. 28 para. 2, 2007) unless otherwise agreed.

In addition, indigenous peoples have the right to protect the environment and develop their lands, territories or resources (UNDRIP, art. 29 para. 1, 2007). Within the UNDRIP, states take the responsibility "to ensure that no storage or disposal of hazardous materials shall take place in the lands or territories of indigenous peoples without their free, prior and informed consent" (UNDRIP, art. 29 para. 2, 2007). The declaration provides that states will also provide effective mechanisms to monitor, maintain and restore indigenous peoples' health if affected by hazardous materials (UNDRIP, art. 29 para. 3, 2007). The declaration discusses indigenous peoples' rights to traditions, culture and the environment, additionally, it draws on the state's responsibility to protect such rights (UNDRIP, art. 31 para. 1 & 2, 2007).

> *Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the*

> *manifestations of their sciences, technologies and cultures, including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs, sports and traditional games and visual and performing arts. They also have the right to maintain, control, protect and develop their intellectual property over such cultural heritage, traditional knowledge, and traditional cultural expressions.*
>
> (UNDRIP, art. 31 para 1, 2007)

The declaration also establishes standards for states to cooperate with indigenous peoples, especially as it pertains to lands, territories and other resources. It provides indigenous peoples "the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources" (UNDRIP, art. 32 para. 1, 2007). State cooperation with indigenous communities is to be conducted in good faith, any state development requires indigenous "free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources" (UNDRIP, art. 32 para. 2, 2007). The declaration also outlines the state's obligation to provide mechanisms for impartial, justice-centric redress as it pertains to approval of any project on indigenous lands, territories or resources without indigenous peoples' free and informed consent. In addition, it defines that "appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact" (UNDRIP, art. 32 para. 3, 2007).

As it pertains to national agreements, the declaration is underpinned by the multilateral accord that indigenous peoples have the right to the recognition, observance and enforcement of legal instruments, institutions and entities agreed upon between the state and indigenous peoples. Such legal entities include "treaties, agreements and other constructive arrangements concluded with States or their successors and to have States honour and respect such treaties, agreements and other constructive arrangements" (UNDRIP, art. 37 para. 1, 2007). The declaration also provides that nothing within the document can be inferred to limit or irradicate any right of indigenous peoples identified in legal entities (UNDRIP, art. 37 para. 2, 2007). Through consultation and cooperation, nation-states are advised to implement appropriate measures to uphold this declaration (UNDRIP, art. 38, 2007).

The comprehensive nature of the UNDRIP offers the international community a framework of standards. Standards established by the declaration are not legally-binding, however, their comprehensive approach extends state parties the opportunity to adhere to the declaration within their national legislation. By addressing both individual and collective rights, the declaration works to incorporate multiple UN mechanisms within its framework, as well as, taking into account multifaceted, yet common issues faced by indigenous populations globally. The declaration took indigenous voices into account and was created with the values and concerns of indigenous peoples as central to its creation. Aspects of state to indigenous cooperation and collaboration are necessary for the current and future political, social and economic realities, especially as it relates to development.

Indigenous and Tribal Populations Convention

The International Labour Organization (ILO) has two conventions which pertain to indigenous peoples' right to self-determination, which primarily pertains to the context of economic developments. The

most recent, *C169 - Indigenous and Tribal Peoples Convention, 1989 (No. 169)* (ILO Convention No.169, 1989) built upon and revised the foundations of its predecessor, *C107 - Indigenous and Tribal Populations Convention, 1957 (No. 107)* (ILO Convention No. 107, 1957). The two conventions are legally-binding treaties which member states have the option to ratify (ILO, 2010). The Indigenous and Tribal Peoples Convention (1989) acts as a legally-binding instrument of protection for the interests of indigenous and tribal peoples. It provides for inclusivity of state to indigenous cooperation as it pertains to development, the fostering of such cooperation aims to guard and promote indigenous integrity, as well as, self-determination.

Ratification of the ILO Convention No. 169 is an important step toward decolonization, and the deconstruction of historical oppression and exploitation of indigenous peoples. In light of the principle of tripartism the ILO was established on: dialogue between multiple levels of governance, employers and labour forces is implied by its nature (ILO, 2013). It has the capacity to alleviate forms of discrimination by calling democracies into accountability. The convention establishes the need for the implementation of appropriate inclusion measures through efficient cooperative national instruments. Consultation with indigenous peoples plays a key role within the process of the ILO Convention No. 169 (ILO, 2013).

Declaration on the Granting of Independence to Colonial Countries and Peoples

The *Declaration on the Granting of Independence to Colonial Countries and Peoples* (Declaration of Decolonization), was adopted on December 14, 1960, by the UN General Assembly resolution 1514 (XV) (Declaration of Decolonization, 1960). Defines the need for sustainable relations based on fundamental human rights outlined in the UN Charter, and in the UDHR (Declaration of Decolonization, 1960). It also states its affirmation of the global need to: decolonize; extend colonized peoples the right to accessibility and utilization of natural wealth and resources; and processes of liberation from colonialism. Forms of segregation and discrimination associated with colonialism are also provided for within this declaration through the principle of liberating colonized peoples from such factors (Declaration of Decolonization, 1960).

Through its first article, the declaration implies that colonialism in action denies fundamental human rights. Subjecting peoples to “alien subjugation, domination and exploitation constitutes a denial of fundamental human rights, is contrary to the UN Charter and is an impediment to the promotion of world peace and cooperation” (Declaration of Decolonization, art. 1, 1960). The declaration further explains the right all peoples have to self-determination. By virtue of the right to self-determination, peoples have the option to “freely determine their political status and freely pursue their economic, social and cultural development” (Declaration of Decolonization, art. 2, 1960). Such a declaration has the capacity to act as an impactful set of guidelines for states parties to begin an implementation process of the elimination of exploitation and segregation of colonized peoples. This is specifically effective with regard to the connections between states and the international community, in order to raise awareness regarding movements of various states toward decolonization. Although an important document, it lacks the legal effectiveness necessary to draw states into international spaces of accountability. The reason for its lack of legal obligation was in part a tactic, “to convert potential negative votes in the General Assembly into softer, legally ineffective abstentions” (McWhinney, 2008).

International Convention on the Elimination of All Forms of Racial Discrimination

Adopted on December 21, 1965, by the UN General Assembly resolution 2106 (XX), the *International Convention on the Elimination of All Forms of Racial Discrimination* (ICERD) entered into force on January 4, 1969 (ICERD, 1965). It comes into alignment with fundamental principles laid out by the UN Charter, and the UDHR through its reiteration of equal rights and dignity every human being is born entitled to without distinction. It also considers the condemnation of colonialism, segregation and discrimination globally, and in all of its forms. Additionally, it considers the Declaration on the Granting of Independence to Colonial Countries and Peoples of December 14, 1960, General Assembly resolution 1514 (XV); and the United Nations Declaration on the Elimination of All Forms of Racial Discrimination of November 20, 1963, General Assembly resolution 1904 (XVIII) (ICERD, 1965).

The sections of this convention which are to be referenced within the body of this research define racial discrimination; outline the state's responsibility to ensure multiple levels of national governance adhere to the agreements set forth within this convention; and offer a framework through which issues of neo-colonialism, systemic racism, and barriers to rights due to racialized discrimination can be analyzed. Article 1, paragraph 1 provides that the term, '*racial discrimination*,' refers to the following:

> *[A]ny distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.*
>
> (ICERD, 1965)

The convention outlines the necessity for states parties to hold racial discrimination accountable within the national, legal mechanisms in order to promote tolerance within broad populations (ICERD, art. 2 para. 1, 1965). It also provides that no state will endorse the act, "or practice of racial discrimination against persons, groups of persons or institutions and to en sure that all public authorities and public institutions, national and local, shall act in conformity with this obligation" (ICERD, art. 2 para. 1 section a & b, 1965). Additionally, the convention asserts that every state party to the convention will "take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists" (ICERD, art. 2 para. 1 section c, 1965).

States Parties agree to "prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law" (ICERD, art. 5, 1965). Additionally, the convention provides for the equal treatment of all people "before the tribunals and all other organs administering justice (ICERD, art. 5 para. A, 1965). As well as the right to security, meaning that the state holds the responsibility to protect "against violence or bodily harm, whether inflicted by government officials or by any individual group or institution" (ICERD, art. 5, para. b, 1965).

Convention on the Elimination of All Forms of Discrimination Against Women

The *Convention on the Elimination of All Forms of Discrimination Against Women* (CEDAW), was adopted by the UN General Assembly on December 18, 1979. It entered into force on September 3, 1981, and is a core, universal instrument in the protection of discrimination against women. The CEDAW is

legally-binding to state parties that have ratified the convention and obligates ratified parties to "take affirmative steps to advance the equality of women" (Albert, Milani, & Purushotma, 2004, p. 120). The scope of this research encompasses various points of discrimination against women, as such, aspects from the CEDAW which pertain to the following topics will be introduced: the definition of discrimination against women; protection for indigenous women against double oppression; and the role of State Parties to stop the traffic and sexual exploitation of women.

According to the CEDAW, the term '*discrimination against women*,' means:

> *[A]ny distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.*
>
> (CEDAW, art. 1, 1979)

The convention articulates methods by which women are to be protected from double oppression through the implementation of effective measures by states parties (CEDAW, art. 3, 1979). Additionally, it requires parties to protect women from all forms of traffic in women, and from sexual exploitation. "States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women" (CEDAW, Art. 6, 2001). States party to the CEDAW maintain the responsibility of upholding the convention, if the state fails to do so and has ratified the *Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women*, the state can enter into the mechanism. The CEDAW's optional protocol was adopted on October 6, 1999, by resolution A/RES/54/4 of the General Assembly, and entered into force on December 22, 2000. Should one's nation-state prove unable to appropriately confront issues, the optional protocol acts as a mechanism to address discrimination against women through its provisional system of inquiry. Through its system of inquiry, it has the ability for communications to be addressed by the mechanism in accordance with violations against the CEDAW.

Convention on the Rights of the Child

The *Convention on the Rights of the Child* (CRC) was adopted by the General Assembly on November 20, 1989, through resolution 44/25. The convention entered into force on September 2, 1990, and is a legally-binding, universal human rights instrument which works to protect the rights of the child. Within the preamble, the convention states that children "should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community" (CRC, 1989). In accordance with the declaration of the Rights of the Child, the convention also states that children require "special safeguards and care, including appropriate legal protection, before as well as after birth" (CRC, 1989).

The CRC identifies the child as: "every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier" (CRC, art. 1, 1989). The convention provides that children shall not be discriminated against based on any of their attributes, nor those of their parents or guardians (CRC, art.2 para. 1, 1989). States that are party to the convention recognize that "every child has the inherent right to life" (CRC, art. 6 para. 1, 1989), and their responsibility to promote "the survival and development of the child" (CRC, art. 6 para. 2, 1989). The convention also explains the child's right to health,

which states parties recognize to be the child's right to enjoy "the highest attainable standard of health" (CRC, art. 24 para 1, 1989). It also provides that states parties "shall strive to ensure that no child is deprived of his or her right of access to such health care services" (ibid.). Ratifying states also commit to pursue effective measures in decreasing infant and child mortality (CRC, art. 24 para. 2 section a, 1989); combatting "disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution (CRC, art. 24 para. 2 section c, 1989); enuring "appropriate pre-natal and post-natal health care for mothers (CRC, art. 24, para. 2, section d).

The obligation for states party to the convection to educate children is emphasized in Article 29, which also states that children should have the opportunity to develop "respect for the natural environment" (CRC, art. 29 para. 2, 1989). States party to the convention are obligated to safeguard children from the "abduction of, the sale of or traffic in children for any purpose or in any form" (CRC, art. 35, 1989). Protection and justice for victims violated by actions laid out in this convention can be attained through the proper functioning of the state party to the convention, as well as through the *Optional Protocol to the Convention on the Rights of the Child on a communications procedure*. Adopted on December 19, 2011, by the General Assembly's resolution A/RES/66/138 and entered into force on April 14, 2014. The optional protocol establishes a mechanism to ensure international protection for violations of the CRC.

Convention on the Prevention and Punishment of the Crime of Genocide

To safeguard populations from recurring events which have previously transpired throughout history, it is necessary to define an international response mechanism. The crime of genocide for example predated the second world war, the creation of the word was in response to historical targetted acts with the intention to destroy specific people groups (UN, 2019). In 1944 genocide was created by the Polish lawyer, Raphäel Lemkin in his book, "*Axis Rule in Occupied Europe*" (UN, 2019). The origins of the term *genocide* are from the greek "*genos,*" which means "race or tribe," and from the Latin word "*cide*," which means "killing" (UN, 2019). However, following the second world war, presented to the international community, Genocide was recognized in 1946 by the UN General Assembly as a crime under international law (UN, 2019). Following which, it was codified in the *Convention on the Prevention and Punishment of the Crime of Genocide* (Genocide Convention). It was approved and proposed for signature and ratification by the General Assembly on December 9, 1948, and entered into force on January 12, 1951 (UN, 2019).

The Genocide Convention provides the definition of the term '*genocide*,' as the following:

> *[A]ny of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:*
>
> *(a) Killing members of the group;*
>
> *(b) Causing serious bodily or mental harm to members of the group;*
>
> *(c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;*
>
> *(d) Imposing measures intended to prevent births within the group;*
>
> *(e) Forcibly transferring children of the group to another group.*
>
> (Genocide Convention, art. 2, 1948)

The Rome Statute of the International Criminal Court

International cooperation requires accessibility to forms of accountability through which crimes can be realized and responded to. An exemplification of such cooperation within the international community can be illustrated by the *Rome Statute of the International Criminal Court* (Rome Statute), a multilateral treaty which was adopted on July 17, 1998, by the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court (ICC), it entered into force on July 1, 2002, and has 123 member states (Rome Statute, 1998). The Rome Statute is the founding document of the ICC, the treaty actually "established three separate bodies: The Assembly of States Parties, the International Criminal Court, which comprises four separate organs, and the Trust Fund for Victims" (ICC, 2016). The Rome Statute identifies four serious crimes over which the treaty has jurisdiction over, they are: Genocide; Crimes Against Humanity; War Crimes; and Crimes of Aggression (Rome Statute, art. 5, 1998). Crimes relevant to this research, however, include the crimes of genocide and crimes against humanity.

The Rome Statute identifies the crime of genocide as the following:

> *[A]ny of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:*
>
> *(a) Killing members of the group;*
>
> *(b) Causing serious bodily or mental harm to members of the group;*
>
> *(c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;*
>
> *(d) Imposing measures intended to prevent births within the group;*
>
> *(e) Forcibly transferring children of the group to another group.*
>
> (Rome Statute, art. 6, 1998)

Crimes Against Humanity are outlined in the Rome Statute means any "widespread or systematic attack directed against any civilian population, with knowledge of the attack" (Rome Statute, art. 7, 1998). Such attacks include the following acts:

> *(a) Murder;*
>
> *(b) Extermination;*
>
> *(c) Enslavement;*
>
> *(d) Deportation or forcible transfer of population;*
>
> *(e) Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law;*
>
> *(f) Torture;*
>
> *(g) Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity;*
>
> *(h) Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender as defined in paragraph 3, or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court;*

(i) Enforced disappearance of persons;

(j) The crime of apartheid;

(k) Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.

(Rome Statute, art. 7, 1998)

Within the Rome Statute, Article 7, paragraph 2 and its subparagraphs describe terms used within Article 7, paragraph 1 of the treaty. For example, Article 7, paragraph 2, section b provides a description to the use of extermination as including "intentional infliction of conditions of life, inter alia the deprivation of access to food and medicine, calculated to bring about the destruction of part of a population" (Rome Statute, 1998). Subsequently, Article 7, paragraph 2, section c states that the term enslavement "means the exercise of any or all of the powers attaching to the right of ownership over a person and includes the exercise of such power in the course of trafficking in persons, in particular women and children" (Rome Statute, 1998). Additionally, Article 7, paragraph 2, section d claims deportation or forcible transfer of population "means forced displacement of the persons concerned by expulsion or other coercive acts from the area in which they are lawfully present, without grounds permitted under international law" (Rome Statute, 1998). Furthermore, Article 7, paragraph 2, section h elaborates the crime of apartheid as meaning "inhumane acts of a character similar to those referred to in paragraph 1, committed in the context of an institutionalized regime of systematic oppression and domination by one racial group over any other racial group or groups and committed with the intention of maintaining that regime" (Rome Statute, 1998). The identification of such terms are critical in assessing crimes committed at national and international levels.

An important element of international law is accountability within the global community. The Rome Statute has governed the ICC which is a permanent, autonomous court, and since the treaty came into force, the court has maintained jurisdiction over the crimes indicated in the statute (Rome Statute, art. 5 & art. 11(1), 1998; ICC, 2021). This means the court "investigates and, where warranted, tries individuals charged with the gravest crimes of concern to the international community: genocide, war crimes, crimes against humanity and the crime of aggression" (ICC, 2016). States which become party to the Rome Statute inherently accept the jurisdiction of the ICC as it pertains to the four serious crimes of the treaty. The ICC is not meant to replace any national criminal system, and only prosecutes cases when States are not willing, or not able to prosecute genuinely (ICC, 2016). However, to do so, the ICC requires the cooperation of the United Nations, and States Parties, "particularly for making arrests, transferring arrested persons to the ICC detention center in The Hague, freezing suspects' assets, and enforcing sentences" (ICC, 2016).

A key aspect of the Rome Statute is the principle of non-retroactivity, which establishes the necessity for criminal actions to be accounted for by a legal body that existed at the time the crime was committed. This means that justice in some form was accessible to the individual, or group in question (De Souza Dias, 2018). However, there are three instances whereby the Rome Statute has the potential to be applied retroactively: in the case that the ICC receives a referral from the UN Security Council; in the case of ad hoc declarations; and in the case that the Office of the Prosecutor moves forward with the investigation. The first instance is when the UN Security Council refers the ICC to a case which involves States that are not party to the Rome Statute. The second instance is if any nation-state extends authority to the Court over a circumstance that took place

when the state had not ratified the Rome Statute (Rome Statute, art. 12 para. 3, 1998; De Souza Dias, 2018; ICC, 2021). The third occasion is if the Office of the Prosecutor chooses to open an investigation based on credible information regarding crimes which a state party to the Rome Statute, a state that has extended jurisdiction to the ICC, or regarding "crimes committed in the territory of such a state, and concludes that there is a reasonable basis to proceed with an investigation" (ICC, 2021, p. 31). This type of information can be given to the Office of the Prosecutor by any credible source, including individuals. The Prosecution must receive the consent and agreement of the Pre-Trial Chamber judges prior to the onset of an investigation (ICC, 2021).

Ecocide

Although the crimes the Rome Statute has jurisdiction over are robust, they are not complete in wholly representing current international issues as it pertains to environmental harms, perpetrators of environmental destruction and subsequent major contributions to global warming. Generally, there are gaps within international law regarding crimes against the environment, however, the proposed crime of Ecocide aims to address such matters (UNEP, 2018). Akin to the term *genocide*, the origins of ecocide are from the greek word "*oikos*," which means "house or household," and from the Latin word "*cide*," which means "killing" (Stop Ecocide Foundation, 2021, p.6; UN, 2019). The term itself is confirmed to have been used in the 1970s by biologist, Arthur Galston in Washington DC at the Conference on War and national Responsibility; in 1972 by the Swedish Prime Minister, Olof Palme in Stockholm at the UN Conference on the Human Environment; in 1973 by Princeton University's international law professor, Richard A. Falk in a draft of an Ecocide Convention; and in 1985 by UN Special Rapporteur, Benjamin Whitaker who advocated for the recognition of ecocide in the definition of genocide (Stop Ecocide Foundation, 2021, p.6).

The crime of ecocide concerns the international community, it is to be considered as an addition to the Rome Statute, and it is being advocated for adoption to the treaty by Stop Ecocide International.[2] The non-profit has convened an Independent Expert Panel for the Legal Definition of Ecocide which has drafted and proposed a definition for the crime of ecocide, it was published in June 2021 (Stop Ecocide Foundation, 2021). The commentary and core text by the Independent Expert Panel for the Legal Definition of Ecocide describes the role of international law as a fundamental actor in "transforming our relationship with the natural world, shifting that relationship from one of harm to one of harmony" (Stop Ecocide Foundation, 2021, p.2). If the crime of ecocide is adopted, it would be the first adoption since 1945. The crime of ecocide is proposed to "build on the existing crime of severe damage to the environment during armed conflict, whilst reflecting the fact that today, most severe environmental damage occurs during times of peace, a situation that currently falls outside the jurisdiction of the ICC." (Stop Ecocide Foundation, 2021, p.3).

The Rome Statute discusses War Crimes in Article 8, paragraph 2, section b, (iv), and states that:

> *Intentionally launching an attack in the knowledge that such attack will cause incidental loss of life or injury to civilians or damage to civilian objects or widespread, long-term and severe damage to the natural environment which would be clearly excessive in relation to the concrete and direct overall military advantage anticipated;*

[2] The Stop Ecocide Foundation is a non-profit company limited. S*ee: Stop Ecocide Foundation, 2021, https://www.stopecocide.earth/sef*.

(Rome Statute, 1998)

Amending the Rome Statute to recognize crimes against the natural environment in times of peace in addition to times of war would offer a relevant and practical legal tool to the international community. The amendment to adopt the crime of ecocide proposed by the Independent Expert Panel for the Legal Definition of Ecocide propose various changes including the following attributes:

A. Addition of a preambular paragraph 2 bis

Concerned that the environment is daily threatened by severe destruction and deterioration, gravely endangering natural and human systems worldwide,

B. Addition to Article 5(1) (e) The crime of ecocide.

C. Addition of Article 8 ter

(Stop Ecocide Foundation, 2021, p.5)

The proposed addition of Article 8 ter to the Rome Statute as drafted by the Independent Expert Panel for the Legal Definition of Ecocide reads as follows:

Article 8 ter

Ecocide

1. For the purpose of this Statute, "ecocide" means unlawful or wanton acts committed with knowledge that there is a substantial likelihood of severe and either widespread or long-term damage to the environment being caused by those acts.

2. For the purpose of paragraph 1:

a. "Wanton" means with reckless disregard for damage which would be clearly excessive in relation to the social and economic benefits anticipated;

b. "Severe" means damage which involves very serious adverse changes, disruption or harm to any element of the environment, including grave impacts on human life or natural, cultural or economic resources;

c. "Widespread" means damage which extends beyond a limited geographic area, crosses state boundaries, or is suffered by an entire ecosystem or species or a large number of human beings;

d. "Long-term" means damage which is irreversible or which cannot be redressed through natural recovery within a reasonable period of time;

e. "Environment" means the earth, its biosphere, cryosphere, lithosphere, hydrosphere and atmosphere, as well as outer space.

(Stop Ecocide Foundation, 2021, p.5)

The Article for ecocide proposed to amend the Rome Statute reintroduces terms used in a wide breadth of international law. In addition to the Rome Statute terms appropriated for the purpose of the definition of the crime of ecocide include: *Convention on the Prohibition of Military or any other Hostile Use of Environmental Modification Techniques*, 1976; *First Additional Protocol to the Geneva Convention*, 1977; and *International Law Commission draft of an International Crime of Wilful and Severe Damage to the*

Environment, 1991 (Stop Ecocide Foundation, 2021, p.8). Causation to adopt the crime of ecocide has resulted from long term acts of unchecked environmental damage. Its adoption is of international interest as it pertains to imposing accountability to environmentally damaging behaviours which have inevitable long term, global impacts.

United Nations Environment Programme and World Meteorological Organization

The *United Nations Environment Programme* (UNEP) was established by the General Assembly in 1972. The purpose of the UNEP is to act as the main body on environmental protection, it is also meant to be an instrument of education on the need to build sustainable solutions between human activities and the Earth (UN, 1992). The creation of the UNEP followed the "Stockholm Conference on the Human Environment," which was the first international conference with the environment as the central issue. The *Stockholm Declaration and Action Plan for the Human Environment* (Stockholm Declaration) involved the global community in dialogue pertaining to the imminence of the issues of climate change and the adoption of the 26 *Stockholm Principles*, which are laid out in the declaration (UN, 1992).

The declaration establishes the role humankind has within their environment, as well as, the insight into potential impacts humans could have on their environment. It provides that environmental protection is the responsibility of all governments in the world, and potential difficulty to international socio-economic development. Additionally, it describes the damages to the environment noticed by the international community to the point of the conference which was held from the 5-16 of June, 1972. It states that in "industrialized countries, environmental problems are generally related to industrialization and technological development" (Report of the UN Conference on the Human Environment, 1973). In light of the environmental degradation that had been reported on to that point, the report lays out the need to shape international action based on environmental care. To do so, the report laid out 26 principles.

The first principle acknowledges other human rights instruments and outlines the responsibility of the individual to conserve the environment, and to make it better for current and future generations (Report of the UN Conference on the Human Environment, principle 1, 1973). The second principle echoes the former stating the earth's natural resources, which include the air, water, land, flora and fauna need to be protected for present and future generations by means of sustainable managing and long-term planning (Report of the UN Conference on the Human Environment, principle 2, 1973). The following three principles, 5, 6 and 7 are those which directly address development associated with the research question of this body of work. Principle 5 outlines the need for the protection of stewardship of the Earth's non-renewable resources, for the sustainable planning of the future (Report of the UN Conference on the Human Environment, principle 5, 1973).

Principle 6 of the declaration states that the release of toxic, polluting substances and the act of releasing heat to a point higher than what the environment can handle must be stopped to safeguard ecosystems from serious or irreversible damage. The principle also details that the fight of all peoples should be supported in all countries (Report of the UN Conference on the Human Environment, principle 6, 1973). In the following principle, the declaration provides that all countries are to take all opportunities to not pollute the seas with any substance that could cause harm to human health, marine life, or to the sea (Report of the UN Conference on the Human Environment, principle 6, 1973). Additionally, Principle 22 of the declaration provides for just compensation and liabilities as it pertains to victims and perpetrators. The Principle describes

the obligation of members of the international community to cooperate in the creation of international laws to advocate for victims of pollution and environmental damage (Report of the UN Conference on the Human Environment, principle 22, 1973).

Within the document, the declaration mentions planning for sustainable solutions on various occasions, however, the gap between the planning and implementation processes was avoidable. Stewardship of the Earth's natural resources, has been, and remains the responsibility of nation states. The impacts to the climate as direct effects of global development, were avoidable. Had principles of the initial Stockholm Conference (1972) been met and maintained by state actors, perhaps the global climate crisis would not have accumulated to its current state. Global realities of the irreversibility of climate change require the collective and immediate response of the international community. More than 50 years later, the second Stockholm Conference (Stockholm Summit) of 2022, revealed a new urgent international call to climate action, and reiterated the need for the implementation of instruments like the Stockholm Declaration (1972); SDGs; and the 2030 Agenda (UNEP, 2022). However, this responsibility still falls on state actors who have failed and continue to fail in effective policy pertaining to environmental and human protection from pollution and toxic substances.

The *World Meteorological Organization* (WMO), was established by the World Meteorological Organization Convention on March 23, 1950. Its primary function is to monitor the Earth's atmosphere, and to analyze the atmosphere's relationship with the Earth (WMO, 2016). The UNEP and WMO established the *Intergovernmental Panel on Climate Change* (IPCC), and it was passed by the General Assembly on December 6, 1988. The IPCC is a scientific panel that informs policy makers on advancements of climate change. As changes in climate impact global and national socio-economic realities, the IPCC was developed in order to inform relevant bodies on risks and potential solutions. Its development was also key in the creation of an inclusive international convention, as well as, in the formation of various protocols and agreements in relation to climate change. The assessment reports of the IPCC informed the development of the *United Nations Framework Convention on Climate Change*; the *Kyoto Protocol*; and the *Paris Agreement* (IPCC, 2010).

United Nations Framework Convention on Climate Change

The UN Framework Convention on Climate Change (UNFCCC) entered into force on March 21, 1994. The Conference of the Parties (COP) is the supreme body of the convention, and maintains regular review of the Convention's implementation among Parties to the convention (UNFCCC, 1992). The COP meets annually, unless otherwise agreed upon by parties, and takes national emission reports into account (UNCC, 2022a). The role of the COP as the legal instrument of the UNFCCC allows the COP to adopt measures to ensure appropriate implementation of the UNFCCC. Within the preamble the convention states concern for the impact human activities have had on the increase in greenhouse gas (GHG) emissions which have increased the warming of the Earth and its atmosphere, as well as, the implications this has on ecosystems and humankind (UNFCCC, 1992).

The UNFCCC outlines its understanding that the climate is globally shared, as are the changes in climate. Furthermore, it understands that climate can be impacted by human activities including industrial activities, natural resource extraction, the burning of fossil fuels, and other methods of carbon dioxide and

greenhouse gas emissions. It notes that the Earth's greatest share of greenhouse gas emissions comes from developed countries; and recognizes the need for an international response to mitigate global warming. It also brings attention to the fact that state parties hold an obligation to the global community in capping their emissions, and builds a guideline pertaining to the responsibilities of state parties to act as responsible stewards over their share of the environment. Additionally, it discusses the need for state parties to not cause damage beyond the limits of their jurisdiction (UNFCCC, Preamble, 1992). The preamble additionally recognizes the necessity for developed countries to urgently address climate change. For the purpose of addressing the overarching research question, the articles which will be addressed include Article: 1; 2; 3; and 4.

Definitions of terms used throughout the convention are found in Article 1. Those most relevant to the body of this research include: adverse effects of climate change; climate change; climate system; emissions; greenhouse gasses; sink; and source. Adverse effects of climate change signify the changes to the Earth's environment, as well as to the, ecology which "have significant deleterious effects on the composition, resilience or productivity of natural and managed ecosystems or on the operation of socio-economic systems or on human health and welfare" (UNFCCC, art. 1 para. 1, 1992). Climate change is self-explanatory in its definition of a change to climate, however, this change is directly attributed to human activities which negatively impact the "composition of the global atmosphere and which is in addition to natural climate variability observed over comparable time periods" (UNFCCC, art. 1 para. 2, 1992). A climate system comprises the entirety of the Earth's "atmosphere, hydrosphere, biosphere and geosphere and their interactions" (UNFCCC, art. 1 para. 3, 1992).

The term emissions refers to the "release of greenhouse gasses and/or their precursors into the atmosphere over a specified area and period of time" (UNFCCC, art. 1 para. 4, 1992). Greenhouse gasses (GHG) are "gaseous constituents of the atmosphere, both natural and anthropogenic, that absorb and re-emit infrared radiation" (UNFCCC, art. 1 para. 5, 1992). Sink refers to the "process activity or mechanism which removes a greenhouse gas, an aerosol or a precursor of a greenhouse gas from the atmosphere" (UNFCCC, art. 1 para. 8, 1992). A source is "any process or activity which releases a greenhouse gas, an aerosol or a precursor of a greenhouse gas into the atmosphere" (UNFCCC, art. 1, para. 9, 1992).

Article 2 of the UNFCCC establishes its objective as a legal instrument to stabilize GHG emissions to stop dangerous climate impacts and states a needed appropriate time frame in which such a goal could be accomplished. Additionally, it discusses a preferred standard for stabilization which would allow for ecosystems natural adaptation to climate change, in order to establish long term sustainability as it pertains to agricultural and economic developments. Article 3 establishes a framework by which state parties can achieve objectives laid out in the previous article. Article 3, paragraph 1 provides that state parties have the option to protect the climate system for humankind, and stipulates developed countries ought to be global leaders in fighting climate change and negative impacts associated with climate change (UNFCCC, 1992).

Article 3, paragraph 3 establishes that parties to the convention ought to take measures with adverse effects of climate change in mind, in order to mitigate such impacts. It also states that if there is a threat of serious or irreversible damage to the environment, a deficit of "full scientific certainty should not be used as a reason for postponing such measures, taking into account that policies and measures to deal with climate change should be cost-effective so as to ensure global benefits at the lowest possible cost" (UNFCCC, art. 3 para. 3, 1992). Article 3, paragraph 4 addresses the right and responsibility to sustainable development, as well

as the need for integration into national jurisprudence. The role of integration within national legislation of states party to the convention is perhaps a more pertinent aspect of the potential for this convention to act as a sustainable instrument of climate change prevention and mitigation.

Article 4, paragraph 8 establishes a plan for the implementation of previous articles through considering actions needed for developing countries with fragile ecosystems. The plan specifically states the need to provide "funding, insurance and the transfer of technology" (UNFCCC, art. 4 para. 8, 1992) to developing countries facing issues associated with the effects of climate change. Moreover, section g states that "Countries with areas with fragile ecosystems, including mountainous ecosystems" (UNFCCC, art. 4, para. 8, 1992); and section h, "Countries whose economies are highly dependent on income generated from the production, processing and export, and/or on consumption of fossil fuels and associated energy-intensive products" (UNFCCC, art. 4, para. 8, 1992). Although sections g and h of Article 4, paragraph 8 are applicable to developing countries, it is necessary to also reconcile industrialized, or developed countries within the scope of ecosystem fragility.

Kyoto Protocol

The *Kyoto Protocol* was published on December 10, 1997, and entered into force on February 15, 2005. The protocol is based on the UNFCCC and serves as a method of implementing the convention with a focus on developed and industrialized countries due to their rate of GHG emissions. The purpose of the protocol was to bind countries emitting on a global average, high rates of GHG to decrease such emissions in accordance with targets established by the protocol.

Paris Agreement

The *Paris Agreement* was established on December 12, 2015, and entered into force on November 4, 2016 (UNCC, 2022b). The Paris Agreement is a direct response to global warming and aims to "limit global warming to well below 2, preferably to 1.5 degrees Celsius, compared to pre-industrial levels" (UNCC, 2022b). It is a cooperative response among international actors and requires nationally determined contributions on a 5 year cycle. The nationally determined contributions are a set of targets established by nation states, and establish a plan for the implementation of methods of adaptation in response to rising temperatures (UNCC, 2022b).

Montreal Protocol

The *Montreal Protocol on Substances that Deplete the Ozone Layer* (Montreal Protocol), was adopted on September 15, 1987. The protocol is an agreement to monitor the use of ozone depleting substances (ODS). The objective of the addition of the Montreal Protocol is to "take appropriate measures to protect human health and the environment against adverse effects resulting or likely to result from human activities which modify or are likely to modify the ozone layer" (Montreal Protocol, 1987). In Annex A, the Protocol establishes groups of potential ODS, over the years this list has been added to based on relevant discoveries related to ozone depletion. Amendments to the protocol based on scientific evaluation evidenced by depletion to the ozone layer as a result of man made substances has accumulated 5 additional annexes (B; C; D; E; and F), the annexes outline about 100 ODS made by humans (UNEP, 2016; UNEP, 2020).

Convention on Wetlands of International Importance Especially as Waterfowl Habitat

The *Convention on Wetlands of International Importance Especially as Waterfowl Habitat* (Ramsar Convention), was established on February 2, 1971, it entered into force in 1975, however, final amendments were made by May 5, 1987 and it entered into force with amendments on July 13, 1994 (Ramsar Convention, 1971). Contracting parties recognized the codependence between humankind and the environment, they considered the fundamental ecosystem services offered by wetlands. The convention recognizes that wetlands are at risk, as such, it aimed to alleviate the loss of wetlands at the time and in the future. It also recognized that waterfowl could cross borders, and as such, ought to be treated as a resource belonging to the international community. Additionally, it had confidence in the role of a unified international community as it pertained to national policies linked to international action.

The first article of the convention establishes definitions for the article, these definitions will also be used throughout this research. Wetlands refers to "areas of marsh, fen, peatland or water, whether natural or artificial, permanent or temporary, with water that is static or flowing, fresh, brackish or salt, including areas of marine water the depth of which at low tide does not exceed six metres" (Ramsar Convention, art. 1 para. 1, 1971). Waterfowl refers to "birds ecologically dependent on wetlands" (Ramsar Convention, art. 1 para. 2, 1971). In accordance with the aforementioned definitions, states party to the Ramsar Convention are required to submit a list of wetlands to be added to the List of Wetlands of International Importance, within its territory (Ramsar Convention, art. 2 para. 1, 1971). The selection of wetlands is conducted in accordance with various factors laid out by the convention, such as: year round habitats of waterfowl and factors of "ecology, botany, zoology, limnology or hydrology" (Ramsar Convention, art. 2 para. 2, 1971). Contracting Parties are required to create and implement plans for the purpose of conserving wetlands within their frontieres (Ramsar Convention, art. 3 para. 1, 1971). They are also required to be notified should any ecological changes occur in the wetlands of its territory which are included in the List of Wetlands of International Importance (Ramsar Convention, art. 3 para. 2, 1971). Contracting Parties "shall promote the conservation of wetlands and waterfowl by establishing nature reserves on wetlands, whether they are included in the list or not, and provided adequately for their wardening" (Ramsar Convention, art. 4 para. 1, 1971).

Convention on Biological Diversity

The *Convention on Biological Diversity* (CBD) opened for signatures on June 5, 1992, at the Earth Summit in Rio de Janeiro; it entered into force on December 29, 1993. The CBD acts as an instrument of sustainable development, as well as a mechanism for the conservation and protection of populations and biological diversity. The overarching message of the convention is to conserve biological diversity to sustain life on Earth. The convention also recognizes indingeous lifestyle, customs and traditionalism which is dependent on the environment. The convention also provides stipulations for the protection of traditional lifestyles, species and populations. It outlines the need for national legislation to reflect the section pertaining to the preservation of indigenous customs through legislative implementation (CBD, art. 8 section j, 1992). Furthermore, the convention provides for the development of appropriate national legislation, as well as "other regulatory provisions for the protection of threatened species and populations" (CBD, art. 8 section k, 1992).

Closing of the International Component

Within the international component of this framework various sources and mechanisms of international law were presented to establish a respective international view on materials relevant to the research question. With chronologic and topic orientation in mind, the international component discussed various instruments which ensure human rights and environmental rights. The aim of attaining international accountability through multilateral agreements is made observable through the implementation of this framework within the greater body of this research. The international framework will act as a foundation for the remainder of this research, instruments and articles introduced within it will be weaved throughout its contents.

National Component

This section acts as the second component of the legal framework which is made up of two parts, the international and national. Both components of the legal framework analyze human rights and environmental law in order to address the overarching research question. Due to the ways in which international sources of law have set a precedent for the international community to reflect within their government bodies, the ratification and implementation of international legal mechanisms plays a crucial role across national legislations globally. As such, the national section of the legal framework is made up of two parts. The first part is a response of Canada's status with regard to international mechanisms; and the second is a discussion based on the Canadian constitution and other national sources of law.

First it will reflect on previously introduced international sources of human rights and environmental law which are either in force, withdrawn from or have the potential to be in force within Canada. Second it will discuss the constitution of Canada and how it has evolved over time, as well as other national legal instruments. Aspects of the national component will be reintroduced within the next section, the Case of Alberta. Furthermore, the Case of Alberta will work to inform how international and national legal instruments are operating in the Northern Albertan paradigm.

1. Ratification and Implementation of International Sources of Law

The Government of Canada provides that the foreign policy of Canada is dictated by multilateralism. Furthermore, the Canadian government asserts that the UN acts as a space of communal dialogue and problem solving as it pertains to global issues (Government of Canada, 2022a). The outcome of international dialogue is a key factor in mitigating global issues. This section discusses Canada's actions and inactions within the international community which will work cohesively with the case study of Alberta, to illustrate the realities of practical implementation of international legal instruments within Canada.

Canada was a founding member of the UN, as such, it has historically played an active role in its ratification and implementation of various international legal instruments (Government of Canada, 2022a). The UN Charter is legally-binding and was ratified by Canada on November 9, 1945 (UN Charter, 1945). The universality of the UDHR provides that the rights laid out in the declaration can be applicable to everyone, globally. Although the UDHR is not legally-binding, governments can integrate it into national legislation and governance practices (Amnesty International, 2018).

Within multiple levels of governance in Canada, the ratification of the ICCPR and the ICESCR were disputed. However, the 1975 Federal-Provincial Ministerial Conference on Human Rights presented the Canadian government with a space to reach agreements as it pertained to national ratifications of human rights instruments. It established the "federal-provincial and inter-provincial "concertation", *i.e.* acting together to implement human rights treaties ratified by Canada" (Ontario Human Rights Commission, 2002). The ICCPR and the ICESCR were ratified by Canada in 1976, and are legally-binding (Ontario Human Rights Commission, 2002). The two covenants require Canada to submit periodic reports under the ICCPR, to the HR Committee; and under the ICESCR, to the UN Committee on Economic, Social and Cultural Rights (Canadian Heritage, 2017).

Adopted by the General Assembly in September of 2007, the UNDRIP was voted in favour by a majority of 144 states, there were 4 votes against the adoption of the declaration, Canada was 1 of the 4 votes against, the others included Australia, New Zealand and the United States (UN, 2006). Despite the fact that the UNDRIP is not legally-binding, Canada did not acknowledge it until 2010, and it was not until 2016 that the "Government of Canada fully endorsed the Declaration" (Government of Canada, 2022b). With a similar spirit to the UNDRIP, the ILO's two conventions, *Indigenous and Tribal Peoples Convention* of 1989 (No. 169), and of 1957 (No. 107), establish a legally-binding agreement. Although the Indigenous and Tribal Peoples Conventions are not obligatory, the ratification of such a convention demonstrates the states desire to uphold that which is outlined within the conventions theirselves. Although a member of the ILO since June 28, 1919, Canada has not ratified either convention despite national violations of indigenous peoples rights (ILO, 2011; ILO, 2012). The lack of ratifications arguably demonstrates the state's non-compliance with international human rights standards set out by mechanisms like the ILO.

The Declaration Granting Independence to Colonial Countries and Peoples (Declaration of Decolonization) was adopted by the General Assembly in 1960. The declaration works to form inclusivity throughout the international community in the endeavor of decolonization. It creates a method of action upon state implementation to decolonize. In so doing, colonized peoples are inherently extended the right to accessibility and use of natural wealth and resources (Declaration of Decolonization, 1960). The practical implementation of this declaration should be reflected in national policies and agreements, specifically in the space of self-determination. However, in the case of Canada, since 1960 the practical aspects of implementation of the Declaration of Decolonization are not overtly observable. Nor are practical factors felt within the greater Canadian paradigm as neo-colonialism has established itself as a major issue which maintains and perpetuates systemic racism in Canada.

Canada ratified the legally-binding, International Convention on the Elimination of all Forms of Racial Discrimination (ICERD) in 1970 (OHCHR, 2019). In 1971, Canada submitted its first report to ICERD and maintains annual reporting to the Secretary-General (Government of Canada, 2017). The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) is legally-binding, and was ratified by Canada in 1981 (OHCHR, 2019). Since its ratification, Canada has submitted 7 reports to the Secretary-General (Canadian Heritage, 2017). Additionally, Canada ratified the legally-binding Convention on the Rights of the Child in 1991 and maintains its reporting (OHCHR, 2019). The Convention on the Prevention and Punishment of the Crime of Genocide entered into force in 1951 and was ratified by Canada in 1952 (UN, 2019). Canada ratified the Rome Statute on July 7, 2000 (ICC, 2003).

Canada was a participant of the Stockholm Conference in 1972 (List of Participants, 1972). Additionally, Canada joined the UNFCCC in 1992, the convention is not legally-binding, however, in response to it, Canada has committed to reaching net-zero emissions by 2050 (Government of Canada, 2020b). Canada has also pledged to "work with its international partners both under the UNFCCC and in other fora to implement" the commitments the nation has made (Government of Canada, 2020b). The UNFCCC obligates states parties to submit annual inventories of GHG emissions, as such, Canada's goals related to GHGs are monitored by an external body of accountability. Furthermore, Canada is required to report on its actions to meet the convention. Such external monitoring is important for a country like Canada which lacks unionization, or an accountability body.

Various outcomes of the UNFCCC have allowed for the international community to participate in playing a role to address climate change. "For example, COP 15 in Copenhagen, Denmark in December 2009 culminated in the Copenhagen Accord, a significant breakthrough in the global effort to address climate change" (Government of Canada, 2015b). Canada's participation in annual COP meetings has enabled a more aware framework for the potential implementation of addressing climate change. Within the framework of the UNFCCC, the Government of Canada states the following:

> *It is fundamentally important for Canada that when taking action on climate change that the voices and rights of Indigenous Peoples are respected and considered. This is why Canada is committed to further advancing the Local Communities and Indigenous People's Platform under the UNFCCC in a way that meaningfully enhances the engagement and participation of Indigenous Peoples in international climate action.*
>
> (International Affairs and the Environment, 2020c).

Canada's active involvement in the UNFCCC aided in establishing the Paris Agreement (International Affairs and the Environment, 2020c). Canada defines the Paris Agreement as a "key element under the UNFCCC" (International Affairs and the Environment, 2020c). It was signed, ratified and entered into force in Canada within 2016. Along with other states party to the agreement, Canada has committed to "[l]imit global warming to well below 2°C, while also pursuing efforts to limit warming to 1.5°C" (International Affairs and the Environment, 2020c). Additionally, under the Paris Agreement, Canada has adopted "a target to reduce its economy-wide greenhouse gas emissions by 30% below 2005 levels by 2030" (International Affairs and the Environment, 2020c). The Paris Agreement has enabled the unification of states working together to achieve the targets laid out in the agreement through the nationally determined contributions report which is an obligatory submission reflective of a country's emissions.

The Montreal Protocol is a legally-binding treaty that entered into force globally by January 1, 1989 and within Canada by April 1, 1989 (International Affairs and the Environment, 2020b). The Kyoto Protocol is a legally-binding climate agreement, in fact, it is the only binding treaty in the world with the aim of GHG emission reduction. It entered into force on February 16, 2005 and entered into force in Canada on December 17, 2002. However, on December 15, 2011 Canada notified the Secretary-General, in accordance with article 27 paragraph 2 of the protocol regarding its decision to withdraw. Canada effectively withdrew from the Kyoto Protocol on December 15, 2012 (United Nations Treaty Collection, 2019).

On May 15, 1981, the Ramsar Convention entered into force in Canada (Ramsar, 1981). The Convention on Biological Diversity (CBD) is a legally-binding treaty that entered into force in Canada on December 29, 1993 (International Affairs and the Environment, 2020a). Regarding the CBD, the government of Canada states that the agreement is important to the nation due to its vast biodiversity "such as the boreal forest and iconic wildlife including polar bear, grizzly bear, caribou, and millions of migratory birds breeding in the Arctic and elsewhere in Canada" (International Affairs and the Environment, 2020a). It also claims that biodiversity is "essential for human health and wellbeing" (International Affairs and the Environment, 2020a).

Figure 1: *Table of Legal Instruments*

Legal Instrument	***Entered into Force***	***Ratified by Canada***	***Legal Status***
UN Charter	1945	1945	Legally-Binding
UDHR	1948*	-	Non-Binding
ICCPR	1976	1976	Legally-Binding
ICESCR	1976	1976	Legally-Binding
UNDRIP	2007	2016	Non-Binding
Indigenous and Tribal Peoples Convention (No. 107)	1957	Not Ratified	Legally-Binding
Indigenous and Tribal Peoples Convention (No. 169)	1989	Not Ratified	Legally-Binding
Declaration of Decolonization	1960	-	Non-Binding
ICERD	1969	1970	Legally-Binding
CEDAW	1981	1981	Legally-Binding
CRC	1990	1991	Legally-Binding
Genocide Convention	1951	1952	Legally-Binding
Rome Statute	2002	2000	Legally-Binding
UNFCCC	1994	1992	Non-Binding
Montreal Protocol	1989	1989	Legally-Binding
Kyoto Protocol	2005	2002**	Legally-Binding
Paris Agreement	2016	2016	Legally-Binding
Ramsar Convention	1975	1981	Non-Binding
CBD	1993	2003	Legally-Binding

*Note * Adopted by the General Assembly. ** Canada officially withdrew by late 2012.*

2. Canada: Constitution and Beyond

The British North America Act, 1867

The *British North America Act, 1867* was the original constitution of Canada. It was a colonial document that came into effect in accordance with the British who colonized Canada. Queen Victoria, of the United Kingdom of Great Britain and Ireland granted the British North America Act, 1867 Royal Assent on March 29, 1867, which entered into force July 1, 1867 (British North America Act, 1867; UK Parliament, 2017).[3] Prior to British colonial occupation, indigneous peoples were free to live in Canada and move within the region and across frontieres freely. However, the British North America Act, 1867 established its authority over indigenous peoples without their free, prior and informed consent. The Act of 1867 is the body of legislation that legalized British colonization in Canada.

The British North America Act, 1867, divided the region of Canada into "Four Provinces, named Ontario, Quebec, Nova Scotia, and New Brunswick" (British North America Act, art. 5, 1867). The Act elicited the formation of a unified sovereignty consisting of the Four provinces, a so-called, 'One Dominion' under the rulership of Queen Victoria (British North America Act, art. 3, 1867). Additionally, the unified provinces which had been established to that point, would inherit the name, 'Canada' (British North America Act, art. 3, 1867). Additionally, the Act established governmental power outlining the organization and formation of one body of government within Canada. "There shall be One Parliament for Canada, consisting of the Queen, an Upper House styled the Senate, and the House of Commons" (British North America Act, art. 17, 1867).

The exhaustive "Powers of the Parliament" laid out in Article 91 stipulate the legalities "for the Queen, by and with the Legislative Authority of Parliament of Canada Advice and Consent of the Senate and House of Commons, to make Laws for the Peace, Order and good Government of Canada" (British North America Act, art. 91, 1867). It also provides for the Parliament of Canada to exercise its power over: "Indians, and Lands reserved for the Indians" (British North America Act, art. 91 para. 24, 1867).[4] Paragraph 24 of Article 91 implies a class system, which was imposed by the colonial implementation of the British system, furthermore, it deems colonialists as having authority over indigenous peoples which was arguably early formations of systemic racism.[5]

The Alberta Act

Prior to 1905, all of Canada "west and north of Manitoba was called the Northwest Territories" (Dunn & West, 2011a). By 1905, immigrants had discovered the now region of Alberta to be a lucrative geographical location, the population of Alberta to that point was estimated to be around 250,000 people (Provincial Archives of Alberta, 2019).[6] The influx of immigrants, or settler colonialists was manageable due to the government's provisions regarding land distribution, especially through the act of lifting the land rights of

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[3] Within modernity, July 1 is still celebrated in Canada as *'Canada day.'*

[4] At the time, indigenous peoples were referred to as '*indians.'* Over time however, the terms, *'indian(s)'* and *'native'* used to refer to indigenous peoples have become intrinsically racialized, likely due to aspects of colonialism and subsequent systemic racism. This research will refer to indigenous peoples as indigenous, or by the terms: First Nations, or Aboriginal.

[5] Although the British North America Act, 1867, applied to the Four provinces which formed the 'Dominion' of Canada, the same law would apply to the province of Alberta which would be officially established in 1905 through *'The Alberta Act.'*

[6] This estimation is based on the number of applications made for homesteads in the Alberta region.

indigneous peoples. The amended *British North America Act, 1871*, provided for the Parliament of Canada to, on occasion, form new Provinces and Territories (British North America Act, art. 2, 1871). The *Alberta Act, 1905* came into effect and established the province of Alberta by September 1, 1905 (Provincial Archives of Alberta, 2019).

The Alberta Act established the borders of Alberta (Alberta Act, art. 2, 1905). As the other provinces of Canada to that point, the province of Alberta inherited the laws that had been set forth within the British North America Acts of 1867-1886 (Alberta Act, art. 3, 1905). The boundaries in accordance with electoral divisions Peace River and Athabaska boundaries were provided for (Alberta Act Pt. II, arts. 24 & 25, 1905). The establishment of the province of Alberta created a sense of security for the British Crown and latter bodies of government within Canada. However, it affected the lives and cultures of indigenous peoples within the province. Not only were indigenous peoples rights taken away, and violated, but they were also victims of land dispossession.

The Indian Act, 1876 - 1985

The *Indian Act, 1876* ascended into force on April 12, 1876. The act provided that it would apply to all of Canada, its terms assigned meaning to indigeneity and applied law to contexts where it was not warranted (Indian Act, art. 1, 1876). The act stripped indigenous peoples of their rights to self-determination and self-governance. Within the act, Indigneous women were not considered as equal to men, however their cultures were primarily contrary to this policy of male dominance (Indian Act, art. 5, 1876). Article 6 provides that reserve:

> *[M]eans any tract or tracts of land set apart by treaty or otherwise for the use or benefit of or granted to a particular band of Indians, of which the legal title is in the Crown, but which is unsurrendered, and includes all the trees, wood timber, soil stone, minerals, metals, or other valuables thereon or therein.*
>
> Indian Act, art. 3 para. 6, 1876.

Article 5 of the Indian Act, 1876, provided that the Superintendent-General (a government official), could at any point authorize the subdivision of reserves into lots. To further illustrate the extent to which indigenous peoples were viewed as less than the colonial government, and the settler colonialists, Article 16 states “any person or Indian,” implying that indigenous peoples were less than those who had newly immigrated to Canada and claimed power over the land (Indian Act, art. 16, 1876). Article 29 of the Act claimed retroactivity as it related to indigenous lands:

> *All Indian lands being reserves or portions of reserves surrendered or to be surrendered to the Crown, shall be deemed to be held for the same purposes as before the passing of this Act; and shall be managed, leased and sold as the Governor in Council may direct, subject to the conditions of surrender, and to the provisions of this Act.*
>
> (Indian Act, art. 29, 1876)

In the case that indigenous peoples resisted the rules and regulations laid out by the Indian Act, 1876, the execution of indigenous peoples was made into legal practice (Indian Act, art. 36, 1876). The Act also

provided that indigenous peoples could no longer have homes in various provinces of Canada to that point. Pertaining to criminal charges, the Indian Act, 1876 identifies the method by which an indigenous person charged with a crime would be prosecuted. The Indian Act laid out that if there was an interpreter, which implies the option of having an interpreter present, or not they should verify the indigenous understood their crime with a "signature or mark" (Indian Act, art. 75, 1876). However, this method did not ensure that the person who had committed any sort of crime understood what they had done wrong, nor, what the law was. Interpreters, if employees of the Crown, could have falsified messages or claimed fluency in an indigenous language, but in reality not spoken it at all.

From the accession to law of the initial Indian Act, 1876 to modernity, the Indian Act is a document which continues to legislate Canadian indigenous peoples. In the amended Indian Act of 1879, residential schools became official policy (Hodgson & Wilson, 2018). From 1884-1951, cultural practices were banned for indigneous peoples; from 1911-1951, reserve lands were taken from indigenous groups without their consent; form 1914-1951 indingeous peoples were banned from wearing traditional ceremonial clothing; 1927-1951 indigenous peoples were banned from seeing legal advice, gathering, or fundraising (Hodgson & Wilson, 2018). By 1951, cultural practices and political organizing was made legal; 1960, allowed indigenous peoples to vote; and 1985, provided indigenous peoples no longer had to rescind their indigeneity, due to marriage or other means (Hodgson & Wilson, 2018; Indian Act, 1876).

Treaty 8, 1899

In order for Alberta to have been established, it was necessary for the colonists to establish rules and regulations to contain indigenous peoples in order to ensure the highest quality of life for the settler colonialists. As such, indigenous peoples in Alberta (and all of Canada) were separated through the implementation of treaties. Treaties predetermined set lists of rules and regulations as it pertained to indigenous personal and land rights. Treaty number 8 included indgenous peoples belonging to various groups, the group of relevance to this research are the Athabasca Chipewyan First Nation. Treaty 8 was 'negotiated' between representatives of the Crown and chiefs of various indgingeous groups who would belong to Treaty 8.

In a report to the Superintendent General of Indian Affairs, dated November 30, 1898, it was made clear that the government was concerned about the "trouble to both the Dominion and the Provincial Governments" (Government of Canada, 1898), that could arise from the indigenous peoples who lived on the East side of the Rocky Mountains. The report stated, "no difficulty ever arose in consequence of the different methods of dealing with the Indians on either side of the Mountains" (Government of Canada, 1898). The report was also concerned for the settler colonialists, miners, or traders "who might be regarded by the Indians as interfering with what they considered their vested rights" (Government of Canada, 1898). Due to the indigenous resistance to the imposition of colonial regulations and rulership, it became necessary for the government to establish the treaty as an instrument of agreement between them and the indigenous peoples.

In an additional report from September 22, 1899, addressed to the Superintendent General of Indian Affairs, it stated that Treaty 8 had been signed "with the Indians of the provisional district of Athabasca and parts of the country adjacent thereto" (Government of Canada, 1899). With regard to the treaty discussions between the chiefs and the state, the report stated that the Chipewyans asked questions and made short arguments. It also outlined that the Chief at Fort Chipewyan, "displayed considerable keenness of intellect and

much practical sense in pressing the claims of his band" (Government of Canada, 1899). The report outlined the requests made by various indigenous peoples and how the author of the report had responded to such inquiries.

The indigenous peoples had communicated their concerns about the potential of signing Treaty 8 to come between them and their beliefs. Some concerns they raised that were reported to Indian Affairs included: the limiting of their cultural practices of hunting and fishing; that schools should not interfere with indigenous religious beliefs; that the elderly who could no longer hunt or trap for themselves needed aid in surviving; and that the government should provide for times of food scarcity (Government of Canada, 1899). Furthermore, the Chief of Fort Chipewyan also asked for the Government to implement a railway built into the country so indigenous peoples could access goods at a fair price, which would enhance "the prosperity of the country" (Government of Canada, 1899). This request was rejected but responded to with the assurance that the recommendation would be communicated to the Government.

The indgeionus peoples were concerned that upon signing the treaty, their rights would be further infringed upon. However, the author of the report assured the indigenous peoples that regardless, they would have to adhere to the law and quieted the apprehension the indigenous peoples had raised (Government of Canada, 1899). The report provided that "[t]he provision in the treaty under which ammunition and twine is to be furnished went far in the direction of quieting the fears of the Indians" (Government of Canada, 1899). As the Indigenous peoples reasoned, it would be unreasonable to "furnish the means of hunting and fishing if laws were to be enacted which would make hunting and fishing so restricted as to render it impossible to make a livelihood by such pursuits" (Government of Canada, 1899). In addition to providing ammunition and twine, the treaty also outlined its provisions of agricultural tools, farm animals and money annually.

Treaty 8 was established in 1899, based on the dates signatures from each individual chief was collected. The treaty was established between the government and indigenous peoples, among the indigenous groups were the present day Athabasca Chipewyan First Nation. The overarching aim of the treaty was to, in many senses legalize colonialism, the treaty states that the Queen's desire was "to open for settlement, immigration, trade, travel, mining, lumbering and such other purposes as to Her Majesty may seem meet" (Treaty 8, para. 3, 1899). It goes on to say the treaty should be arranged with the indigenous peoples to foster "peace and good will between them and Her Majesty's other subjects, and that Her Indian people may know and be assured of what allowances they are to count upon and receive from Her Majesty's bounty and benevolence" (Treaty 8, para. 3, 1899).

The treaty outlined the need for Chiefs and Headmen of the indigenous groups to be named to the government in order to sign the treaty, "and to become responsible to her Majesty for the faithful performance by their respective bands" (Treaty 8, para. 4, 1899). The indigenous groups party to the treaty gave up their rights through Treaty 8, having previously stated all indigenous groups signing the treaty, the government then went on to establishing the following agreement:

> *[T]he said Indians DO HEREBY CEDE, RELEASE, SURRENDER AND YIELD UP to the Government of the Dominion of Canada, for Her Majesty the Queen and Her successors for ever, all their rights, titles and privileges whatsoever, to the lands included within the following limits*.
>
> (Treaty 8, para. 5, 1899).

The limits identified are boundaries that establish the borders of Treaty 8 land (Treaty 8, para. 6, 1899). It also states that the indigenous peoples had to give up their rights to all other lands in any other part of Canada (Treaty 8, para. 7, 1899). It also reflected the nature of a covenant that signatories are bound by the Crown and its future: "TO HAVE AND TO HOLD the same to Her Majesty the Queen and Her successors for ever" (Treaty 8, para.8, 1899). The treaty also provides that indigenous peoples will be allowed to hunt, trap and fish throughout the surrendered lands, and that under the authority of the Queen, land may from "time to time" be taken "for settlement, mining, lumbering, trading or other purposes" (Treaty 8, para. 9, 1899).

The treaty also maintains the Queen's right to sell or dispose of the lands with the consent of the indigenous peoples the lands belong to (Treaty 8, para. 11, 1899). Additionally, it outlines that indigenous reserves and lands may be appropriated at any time for "public works, buildings, railways, or roads" it goes on to claim "due compensation being made to the Indians for the value of any improvements thereon, and an equivalent in land, money or other consideration for the area of the reserve so appropriated" (Treaty 8, para. 12, 1899).

To ease the relationships between the Queen and indigneous peoples, and perhaps to foster trust – likely regarding the process by which indigenous lands and freedoms had been appropriated by the British – the following statements were made in Treaty 8:

> *And with a view to show the satisfaction of Her Majesty with the behaviour and good conduct of Her Indians, and in extinguishment of all their past claims, She hereby, through Her Commissioners, agrees to make each Chief a present of thirty-two dollars in cash, to each Headman twenty-two dollars, and to every other Indian of whatever age, of the families represented at the time and place of payment, twelve dollars. And with a view to show the satisfaction of Her Majesty with the behaviour and good conduct of Her Indians, and in extinguishment of all their past claims, She hereby, through Her Commissioners, agrees to make each Chief a present of thirty-two dollars in cash, to each Headman twenty-two dollars, and to every other Indian of whatever age, of the families represented at the time and place of payment, twelve dollars.*
>
> (Treaty 8, para. 13, 1899)

The total number of indigenous peoples who had signed Treaty 8, and been paid by the government in 1899 was: 2,217. Of the 2,217 indigenous peoples registered in 1899, 410 were of the Chipewyan Band in Fort Chipewyan. In 1900, an additional 1,218 indigneous peoples had registered, establishing a total of 3,323 indigenous peoples in 1900, an increase of 1 Chipewyan from Fort Chipewyan. From the total number of indigenous peoples documented in 1899, $26,974.00 was paid out. In 1900, the amount paid increased by $14,858.00 and from Fort Chipewyan, $12.00 was paid (Government of Canada, 1900). The treaty also states that after signing the treaty, the Chief will receive "a silver medal and a suitable flag," additionally that every three years the Chief and Headman will "receive a suitable suit of clothing" (Treaty 8, para. 15, 1899). It also provides that the Queen will pay the salaries of the teachers who instruct the "children of said Indians as to Her Majesty's Government of Canada may seem advisable" (Treaty 8, para. 16, 1899).

In addition to previously mentioned items, the treaty also promised various tools for agriculture, or stock raising, or hunting and fishing. The stipulations of disbursement are dependent on the choice of the indigenous group as to what activity they would have liked to pursue at that time. Dependent on their choice, it was the responsibility of the government to distribute appropriate resources. Figures 2, and 3 depict the compensation that would be received upon each choice made.

Figure 2: *Allotments, as Promised by the Crown for Agriculture and Stock Raising*

Groups (and Families within the Groups) who chose agriculture and stock raising	**Resources**
Per Family	- Two Hoes - One Spade - One Scythe - Two Hay Forks - One Cow *
Per Every Three Families	- One Plough - One Harrow
Per Every Family of Five	- Two Cows **
Per Chief (for the group)	- Ten Axes - Five Hand-saws - Five Augers - One Grindstone - Necessary Files and Whetstones - Two Horses or a Yoke of Oxen - One Bull* - One Mowing-Machine * - One Reaper * - Two Bulls** - Two Mowing Machines**
For each group	- Potatoes *** - Barley *** - Oats *** - Wheat ***

* Upon the decision of the indigenous group to cultivate the land, and should they not want to, the could raise livestock.

** Should the group choose to raise livestock.

*** With the contingency that seed would be provided for a few months, for a few years.

(Treaty 8, para. 17 & 18, 1899)

Figure 3: *Allotments as Promised by the Crown for Hunting and Fishing*

Groups (and Families within the Groups) who chose hunting and fishing	**Resources**
Per Head of the Family	- $1 Ammunition - $1 Twine for Making Nets

(Treaty 8, para. 18, 1899)

The treaty provides that the signing parties promise to "behave themselves as good and loyal subjects of Her Majesty the Queen" (Treaty 8, para. 19, 1899). It also requires the undersigned to abstain from interfering with any one who now has ownership of former indigenous lands. It provides that should any law be broken, indigenous peoples will be punished and be presented with the British form of justice (Treaty 8, para. 20, 1899). The treaty lacks any action that would be taken should the crown deviate from its promises, or should treaty rights be infringed upon. It also lacks any form of advocacy for the indigenous peoples who were required to sign, and persuaded by visiting government officials, whose lands had been grabbed and who were then placed within reserves set out by the colonial government and their Queen.

Contemporary Canada

Within modernity, the Alberta Act is still in effect (Constitution Act, section 53 item 12, 1982). As the Indian Act is still in effect, since 1985 there have been no significant changes to the Indian Act. Some indigenous groups within Canada are in favour of maintaining the Act, and others are in favour of its reform, or having it completely abolished (Government of Canada, 2013). The most recent amendments to the Indian Act of note pertained to the removal of gender discrimination in 1985; and the provision of "voting rights to off-reserve members" (Government of Canada, 2013), in 1999. However, for the most part, the Indian Act remains close to what it was upon its creation. The terms established in the Indian Act are colonial terms, their uses and references are outdated and widely offensive due to the transition of systemic racism throughout history on account of British colonialism in Canada.

Furthermore, the colonial construct of the reserve system provided that the Canadian government would set land aside for the indigenous peoples. Reserve lands belong to the federal government, and indigenous peoples "do not have title to reserve land" (Open Text BC, 2018).

> *Reserves were often created on less valuable land and sometimes located outside the traditional territory of the particular First Nation. If the First Nation had lived traditionally by hunting and gathering in a particularly rich area, confinement to a small, uninhabitable place was a very difficult transition. Allotted reserves were always small compared to the First Nations' traditional territory.*
>
> (Open Text BC, 2018)

The colonial document, the Indian Act is underpinned by the colonial ambition of ownership of land and peoples. A certain byproduct of which is racism and visible segregation that colonial land grabbing, and subsequent land dispossession of indigenous peoples established. The modern application of the Indian Act remains a tool of segregation of indenous peoples; non-advocacy for indigenous peoples; and exclusion of indigenous peoples from decision making processes that have short to long term effects. Remedy to issues experienced due to the implementation of the Indian Act and other colonial rulings (like treaty agreements), indigenous peoples were not able to develop at the pace of the majority of society despite their abilities or desires to do so. The fact that the Indian Act is still in power without significant amendment demonstrates the level to which Canada has maintained colonialism throughout the years, which has become observable within modernity through neo-colonial exercising of power.

Treaty 8 is another colonial document which remains in effect within modernity. The treaty covers roughly 841,487.137 square kilometres (Tesar, A. 2016). Its remediation by offering short term monetary gain, in exchange for long term suffering was and remains at the expense of the indigenous peoples who renounced their rights, freedoms and lives to appease the Queen and her colonial government. The underlying message of individuals as property of the Queen due to racial differences and cultural heritage does not qualify the initial act, nor perpetuation of such an act to impose one's rulership over indigenous peoples. The Indian Act and Treaty 8 perpetuate dichotomies of societal power dynamics that have persistently snowballed over time, establishing their credibility within governmental, contemporary reasoning.

Figure 4: *Treaty 8 Territory*

Adapted from AADNC www.aadnc-aandc.gc.ca/DAM/DAM-INTER-HQ/STAGING/texte-text/htoc_1100100032308_eng.pdf

(Walking Together Project, 2018)

Canada's functioning constitution adopted the British North America Act, 1867, as well as amendments laid out in the *Constitution Act, 1982* due to the patriation of Canada from the United Kingdom in 1982 (Government of Canada, 2021b). An addition to the modern constitution was the *Canadian Charter of Rights and Freedoms* (1981), the charter establishes fundamental rights and freedoms which are also reflected in various international documents ratified by Canada, like the UN Charter, the UDHR, the CEDAW, the CRC and the ICERD. The rights and freedoms laid out in the Charter are upheld through the parliamentary and governmental application of the Charter (Canadian Charter of Rights and Freedoms, art. 32 para. 1, 1981). Should any basic right or freedom be denied or infringed upon, the Charter dictates that such a case can be presented to a "court of competent jurisdiction to obtain such remedy as the court considers appropriate and just in the circumstances" (Canadian Charter of Rights and Freedoms, art. 24 para. 1, 1981).

The structure of governance however, has remained as it had been established within the British North America Act, 1867, it includes the Parliament, the senate and the House of Commons. Within modernity, the Queen maintains executive power in Canada, however, within Canada's democracy, "the Queen's powers are exercised by constitutional convention" (Government of Canada, 2021b). The executive powers of the Queen are exercised on the advice of the Ministers of the House of Commons. The Parliament of Canada is made up by the Queen,[7] the Senate and the House of Commons (Government of Canada, 2021b; Constitution Act, 1982). Parliament is the "legislative branch of the federal government" (Government of Canada, 2021b). Additionally, the Constitution of Canada provides the judicial branch of government which is made up by judges who are appointed by federal law.

Laws are passed within Canada through Royal Assent which is granted by the Queen, or by her representative, the Governor General. Therefore the government of Canada consists of three segments of government: the executive power; the legislative and the judicial. The Federal Government of Canada handles things like "trade between provinces, national defence, criminal law, money, patents, and the postal service" (Government of Canada, 2021b). Provincial Governments "have the authority to make laws about education, property, civil rights, the administration of justice, hospitals, municipalities, and other local or private matters within the provinces" (Government of Canada, 2021b).

Closing of the National Component

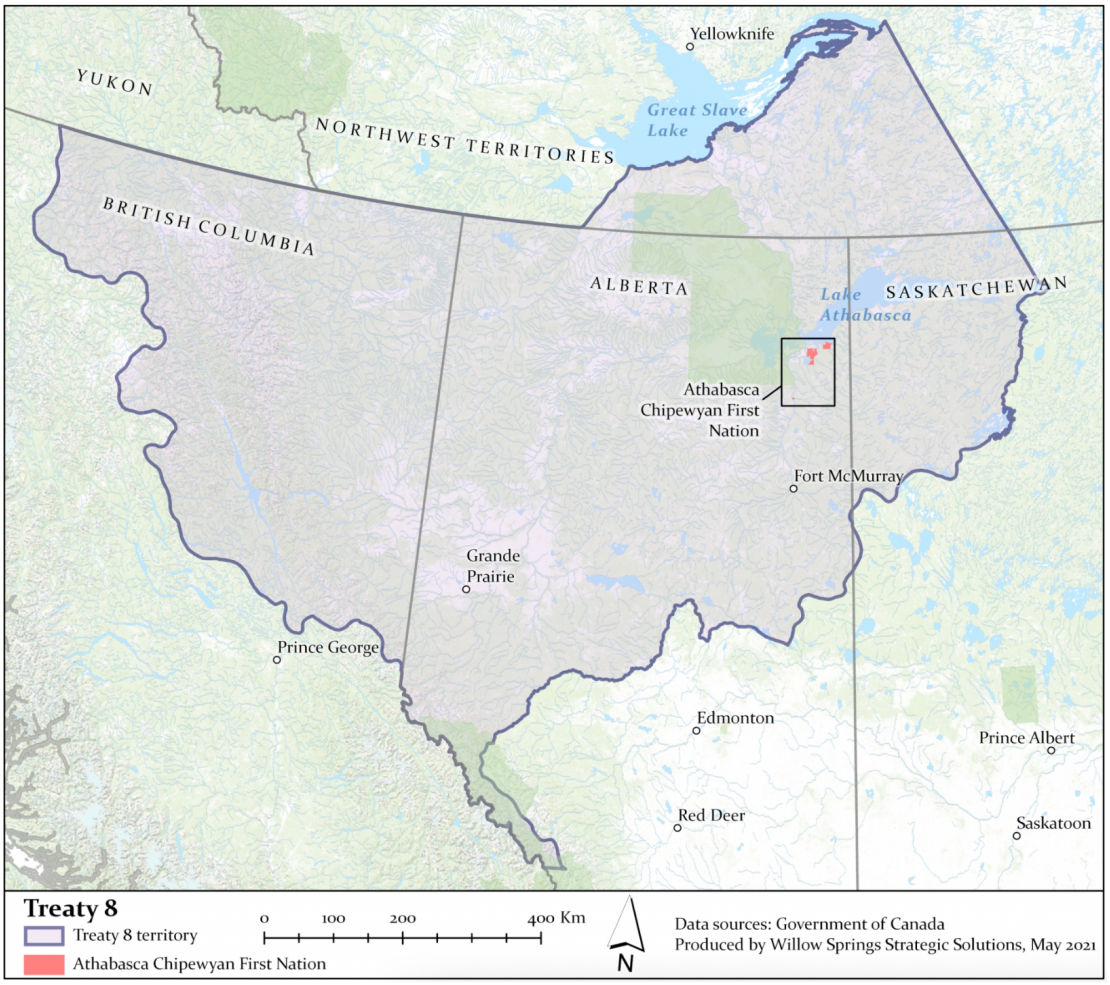
Within the legal frame, the international and national components worked together to illuminate the nature of international mechanisms, and which instruments Canada is party to, as well as, how national governance reflects international standards. The historical and contemporary aspects of the national component worked to illustrate Canada's legal foundations, and how the nation operates in modernity. The Case of Alberta in the following section will draw the two components together through the issues it deconstructs. Multiple levels of governance from both international and national contexts are required to address complex, long-term issues, as the Case of Alberta.

[7] Within Parliament, the Queen is represented by the Governor General.

The Case of Alberta:
Then to Now, Pre to Post-Colonialism

The Athabasca Chipewyan First Nation (ACFN), are the indigenous group of focus within this research. They are a Treaty 8 Canadian Indigenous group, who predominantly preside in the Athabasca Region of Northern Alberta. The ACFN are the descendents of the K'ai Tailé Déne (ACFN, 2021). Their name embodies their multi-generational connection with the land, observable through the meaning of their name, K'ai Tailé Déne, which means "people of the land of the willow" (ACFN, 2021). The lands of the Peace Athabasca River delta are biodiversity rich, they are lands that the K'ai Tailé Déne "have traditionally survived on and connected with for thousands of years" (ACFN, 2021). The K'ai Tailé Déne belonged to the Dene family of indigenous peoples, as such the ACFN belong to the Dene family (ACFN, 2021; Dunn & West, 2011b). The Athabasca Chipewyan First Nation and their ancestors have inhabited the "western subarctic region of Canada" (Dunn & West, 2011b), which has a notoriously harsh climate. According to inferences made on Indigenous oral histories that refer '*to a time of only winter*,' it is believed the Dene have "inhabited the Northwest Territories since the Ice Age" (Welker, 1996).

Figure 5: *Treaty 8 and the ACFN*



(ACFN, Fortna & Trimble, 2021)

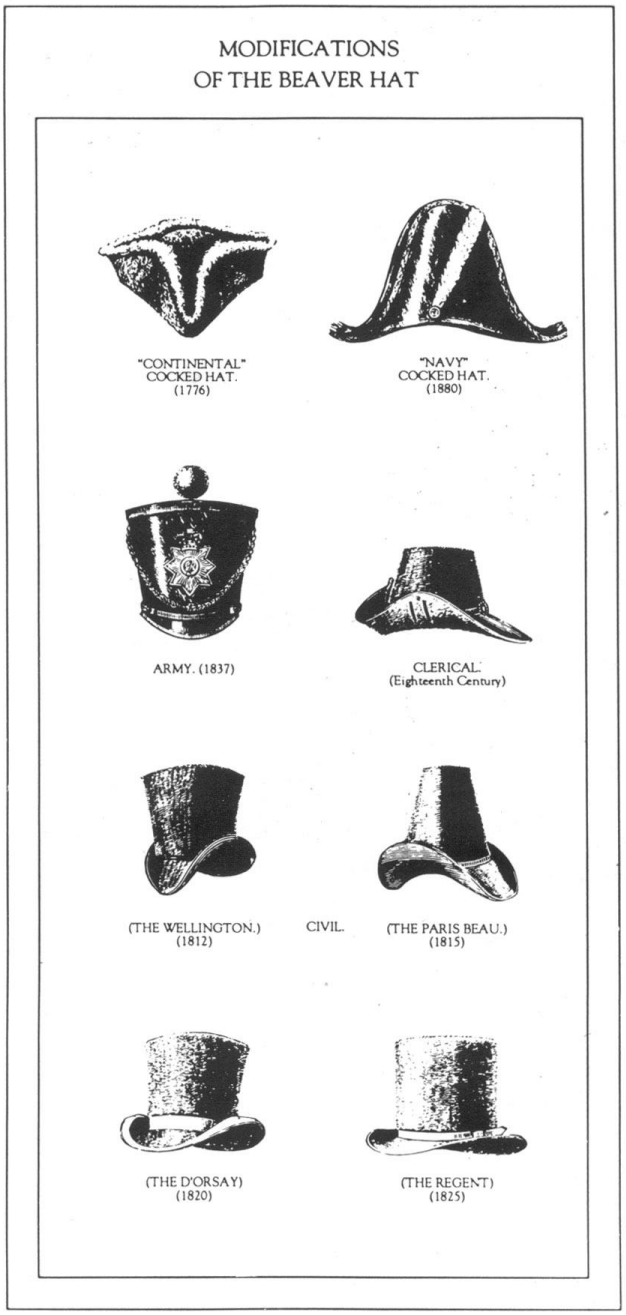
The connection of the K'ai Tailé Déne to the land acted as a quality of life indicator, which has provided for the survival of the Dene Indigenous peoples. The landscape in the region the Chipewyan occupied was predominantly made up of boreal forests, as well as stretches of flat lands. Largely dependent on hunting and fishing, the Dene were a nomadic people whose migratory patterns were dictated by seasonal migrations of wildlife to ensure year-round food security (Gordon, 2012). The Chipewyans traditionally relied on wild plants and berries; as well as, animals including bison, caribou, fish, moose, musk oxen and waterfowl. However caribou was their primary traditional food source, the whole of the animal was integral to Chiepwyan culture, its hide was used to make traditional clothes, shelters, and hunting and fishing tools like nets and lines (Britannica, 2016).

Hunting was conducted primarily among men, in warmer seasons, hunters preyed on herds of caribou at "water crossings along their migration routes" (Gordon, 2012, p.315). In the winter months, hunters "split into smaller groups to hunt the caribou, which dispersed into small, widespread groups according to the availability of tree lichens in the boreal forest" (Gordon, 2012, p.315). Due to nomadic lifestyles, Dene housing was commonly transportable and made from dried animal skins, or consisted of "dugout pit houses and cabins or lodges built from poles" and snow-packed huts (Dunn & West, 2011b; Gordon 2012). The family unit was the main source of social organization, for the purpose of travel for example, "several families travelled together in small groups although occasionally a summer camp of up to 600 people might come together" (Dunn & West, 2011b). The Dene travelled in winter using "snowshoes and toboggans," and in summer through water navigation on "light bark-covered canoes" (Dunn & West, 2011b).

Aside from the climate, they had no restrictions of any kind, based on the returns from hunting and with strategic planning they enjoyed food security all year long; water security; freedom of movement; and freedom to practice their culture including their spiritual beliefs and languages. Governance among the Dene was traditionally a collective approach, the organization of such governance was "consensus based" (Gordon, 2012, p.314). "Chiefs were chosen for their ability and only for temporary purposes and their leadership was not absolute" (Dunn & West, 2011b). For the Dene, family lineage was dictated by maternal lineage, they "share matrilocal residency and matrilineal kin reckoning" (Gordon, 2012, p.314). The indigenous peoples of North Eastern Canada commonly encountered early, European explorers. Early explorers were primarily characterized by their mission to claim lands on behalf of their respective Kingdoms. Because of Canada's extensive wildlife populations, Europeans appropriated animals as a commodity to be consumed within spaces of fashion, thus began the fur-trade which was a staple in European - First Nations relations.

The primary fur demands were beaver pelts (Government of Canada, 2015a). The early fur trappers and traders established relationships with the First Nations people of Canada primarily to learn from them as it pertained to survival, hunting and trapping. At the beginning of the 1600's, the fur-trade had gained traction in Europe, therefore, there was a higher demand for fur. In 1610, Henry Hudson discovered the Hudson Bay (HBC, 2017). Fuelled by the demand for fur, King Charles II of Great Britain and Ireland, claimed a monopoly over the Hudson Bay in 1670 under the *Royal Charter* (HBC, 2017). The charter allowed the British to have ownership of all lands drained by the rivers that flowed into Hudson Bay, and to "exploit mineral resources and the obligation to search for the Northwest Passage" (HBC, 2017). Prince Rupert, cousin to King Charles II, was the first governor of the HBC (HBC, 2013). As such, the land owned by the company was called "Rupert's Land, this area covered approximately 40% of modern Canada" (HBC, 2013).

Figure 6: *The Reason for the Fur Trade, Beaver Hats*



(HBC, 2012)

The monopoly established by the Royal Charter of 1670 created the Hudson Bay Company (HBC), one of the first predecessors to a modern day transnational corporation (Ietto-Gillies, 2012, p.8). HBC evolved as a "joint-stock company with a centralized bureaucracy" (Ray, 2009). Due to the HBC's success rate in supply and demand, the company developed the need to to source more furs. In order to do so, European trappers employed water routes through Canada's interior, and travelled the routes by canoe, generally guided by indigenous peoples. Canadian indigenous peoples played various essential roles in the success of the fur trade. Locations of trading posts "depended on the presence of indigenous peoples willing and able to trade,

and on the ease of transportation to and from them" (Ogilvy, 2006). Trading with indigneous peoples established a market among traditional practices, such actions were perhaps the earliest dependencies indigenous peoples would have formed with European explorers. Furthermore, the dependence on the proximity of indigenous peoples to trading posts, made room for societal plurality.

Trapping methods differed significantly and there was no measure to monitor European trappers. For example, indigenous trappers may have set 30 traps whereas, a European trapper may have set 100, the European trappers "would just take everything they could get, leave and abandon the area once they had taken all the animals" (McCormack, 2021). The method of over-killing to ensure efficient animal death rates was a threat to the expanse of indigenous life. This method was a detrimental principle to food security, as traditional indigneous game numbers had decreased, which would prove difficult in winter and would establish a necessity for indigenous dependency on colonialists to provide in the case of harsh winters. The relationships fostered between European trappers and traders, and indigenous peoples would likely not be maintained into the distant future, as fur prices had depleted significantly by 1871 (Ray, 2016, p.207). Settler colonialists would form new relationships with indingeous peoples, which would be characterised by the British power over its colony and said colony's peoples.

The Colonial Occupation through an Indigenous Lens

The laws and regulations introduced by the British North America Act, 1867; the Indian Act, 1876; and Treaty 8, 1899 imposed extreme changes to the pre-colonial Dene lifestyle. Where the Chipewyan previously enjoyed their culture, traditions, autonomy, self-determination within their communities along with traditional forms of democracy, the British North America Act, 1867, imposed colonial measures through the executive power vested in the Queen and her colonial government (British North America Act, art. 91 para. 24, 1867). Article 91 of the British North America Act, 1867, claimed its provision to "make laws for the peace, order and good government of Canada, however, Canada had already been populated, by people who had not agreed to such terms. The claims made on the part of Canadian indigenous peoples were impositions facilitated by the British without free, prior or informed consent. This extends to the implementation of The Alberta Act, a region that was adopted into the provincial dominion of Canada although Canada's First Peoples had not consented to any such act. In the same vein, Ruperts Land and subsequent transnational corporation of the Hudson Bay Company had also imposed their presence and operations upon indigenous peoples but lacked free, prior and informed consent.

The Indian Act, 1876, established a framework whereby colonialism could be legally conducted through. It introduced patriarchy and general gender inequalities (Indian Act, art. 5, 1876); it dispossessed indigenous peoples of any former land rights or rights to natural resources of any kind (Indian Act, art. 3, para. 6, 1876); it introduced potential for future legal land dispossession (Indian Act, art. 5 & 29, 1876); consequences for breaking laws set out were established throughout the act, and included execution (Indian Act, art. 36, 1876). However, this legal document was altered many times to make room for the government's bad practices which further withdrew indigenous peoples from their traditional lifestyles.

The Chipewyan had voiced their concerns regarding Treaty 8, 1899, their primary concerns were that their hunting and fishing practices might be limited; that schools might interfere with indigenous religious beliefs; and that indigenous peoples rights in general would be further infringed upon. Alexandre Laviolette

was the Chief of the Athabasca Chipewyan First Nation, he was one of the signatory Chiefs of the colonial Treaty 8 agreement. He inquired after the authority the colonialists had over his country, in a letter, in 1897. One portion of the letter read, “Who told you to come out here. I would like to know that. Am sure it is not [sic] God. God let this country [be] free, and we like to be free in this Country” (ACFN, 2016). Two years later, in 1899, Laviolette would sign Treaty 8, but first he negotiated for the people of the ACFN, and the future generations that were to come. A correspondent for the office of Indian Affairs reported that the Chief at Fort Chipewyan, “displayed considerable keenness of intellect and much practical sense in pressing the claims of his band” (Government of Canada, 1899). Furthermore, Chief Laviolette attempted to negotiate for a railway to increase accessibility to goods across the country, inclusive of remote areas.

Treaty 8, 1899, was signed under false pretences. Segments of the treaty and vocabulary used was altered by the colonialists from what had been agreed to with the indigenous peoples in order to achieve apparent “peace and good will” (Treaty 8, para. 3, 1899). This peace and good will was meant to underpin relationships between indigenous peoples and settler colonialists. In return for the established peace and a good will, the indigenous peoples of Canada were to “know and be assured of what allowances they are to count upon and receive from Her Majesty’s bounty and benevolence” (Treaty 8, para. 3, 1899). However, were this treaty in fact established to foster peace and good will, the terms of its nature would not have been altered without the indigenous people’s prior and informed consent. It had been communicated to the indigenous peoples, and documented in a report to Indian Affairs that the indigenous peoples had no claim to non-adherence, they were forced to compliance (Government of Canada, 1899).

According to *oral histories* which are traditional forms of historical account shared to inform younger and future generations of what has transpired in the past, Elders of indigenous communities party to Treaty 8 have recounted that “the term cede was not used when Treaty No. 8 was described to the signatories, the term share was used” (Treaty 8 First Nations of Alberta, 2022). Paragraph 5 of Treaty 8 provides the necessity of the indigenous to give up their rights to the land, however, under the pretences the indigenous peoples were privy to, it would have been understood that they were entering into a shared land agreement. The treaty outlined that the Queen may dispose of lands with the consent of indigenous peoples (Treaty 8, para. 11, 1899), but it also provided that lands may be appropriated (Treaty 8, para. 12, 1899). The fact that the Queen and the newly formed government had imposed all that it had demonstrated the gravity of the British North America Act, 1867, which claimed the Queen’s power over Canadian indigenous peoples. The vagueness of Treaty 8 served the purpose of allowing the Queen and the colonial government to racialize, discriminate, segregate and dispropriate Canadian indigenous peoples without the accountability of honouring initial agreements.

The treaty undoubtedly benefited the British Empire, however, it was at the expense of indigneous peoples in Canada. Rights that were withheld and taken by Treaty 8 would impact the ACFN forever. The concerns the indigenous peoples had voiced prior to signing Treaty 8, manifested themselves as a result of government actions. For example, hunting and trapping were restricted likely due to overhunting on the part of the Europeans, as previously mentioned. Due to the influx of settler colonialists coexisting with European trappers, and the maintained lifestyle of indigenous peoples, the presence of the Europeans added strain with regard to food security. In response to hunting and trapping restrictions, Alexandre Laviolette “deliberately broke the Alberta Game Act to protest the closed season on beavers as a violation of the treaty” (ACFN, 2016). Among other factors, the depletion in wood bison elicited the colonial creation of Wood Buffalo National Park.

Furthermore, Paragraph 9 of Treaty 8 established that from time to time, land would be used for activities under the approval of the Queen, however, land that was used was to be returned (Treaty 8, para. 9, 1899). This was not the case for Wood Buffalo National Park (WBNP). WBNP which was established in 1922, as a response to the need for wood bison preservation due to overhunting. It was a part of Treaty 8 territory, and was colonially created and managed. Many were forced from their homes (Pimentel, 2021), and annexed from the WBNP lands, this caused high levels of trauma among the ACFN, it was and remains a breach of Treaty 8. This was a traumatic process because it was a process of land displacement and dispossession which resulted in the exclusion and impoverishment of indigenous peoples (ACFN, Fortna & Trimble, 2021). It was done despite cultural significance to the Dene, and Dene land use. Today, WBNP is the largest National Park in Canada, covering 44,741 square kilometres (Pimentel, 2021).

Another example of concerns of indigenous peoples becoming a reality were the residential schools which not only interfered with indigenous religious beliefs, but with every other aspect of indigenous culture. Residential schools were mechanisms of assimilation whereby indigenous children were taken and re-educated. The schools were funded by the government and run by the church (Cooper, 2022). Children were often forcibly taken from their families to the schools where they would be disallowed to speak their native languages, practice their spiritual beliefs, or take part in traditional practices. The schools often used child labour, physical and sexual abuse, and at times children would never return from the residential school. So far, Canada has unearthed thousands of unmarked graves with the bodies of children who never returned home, but attended the schools.

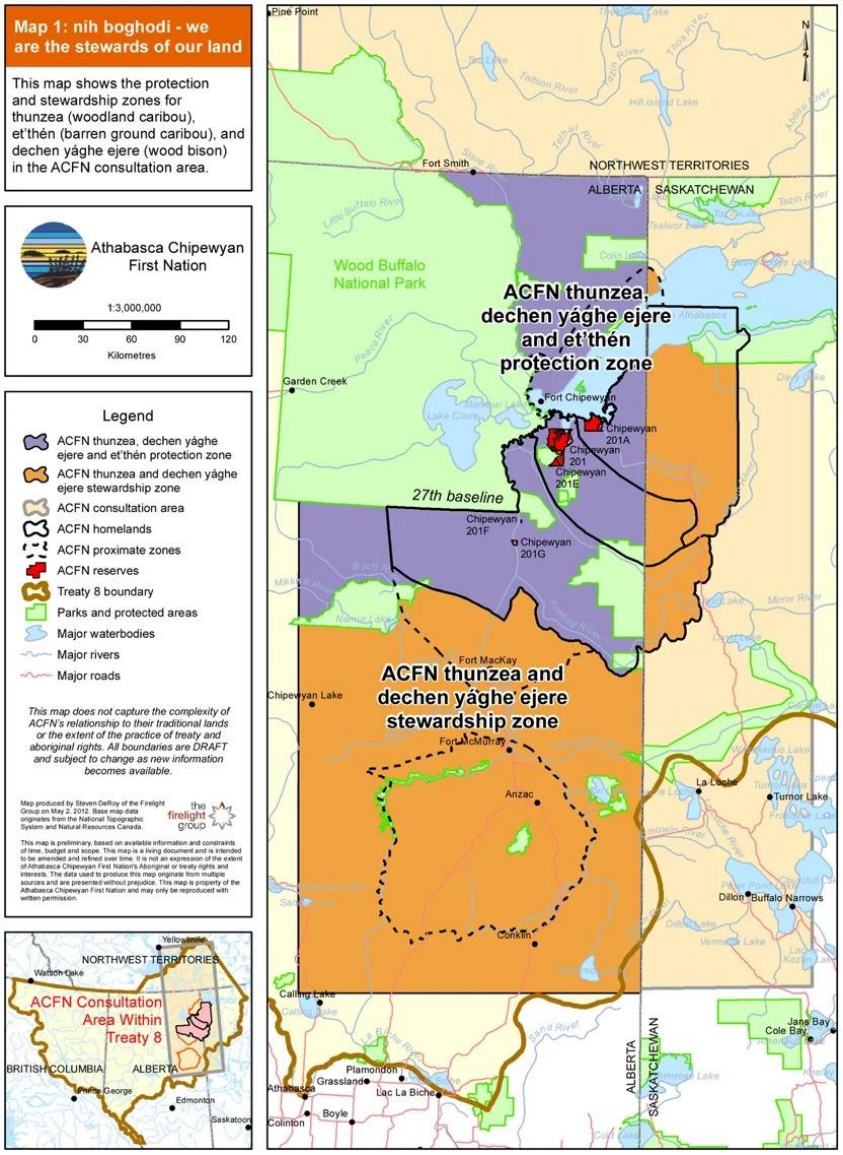
Holy Angels School was the residential school in Fort Chipewyan. Founded in 1874, the Catholic, Holy Angels residential school operated for 100 years, and closed in 1974. Throughout the century-long span, the school was relocated (1881), expanded (1898, 1902 and 1907) and saw some reform as it transitioned to a day school (National Centre for Truth and Reconciliation, 2018). From the 1950's onward the school had transitioned to be more of a child welfare institution. Not only was the residential school a violation of Treaty 8 in its interference with indigenous religion, it was genocide. The National Centre for Truth and Reconciliation has released a list of 89 known names of children who died at Holy Angels school, however, the ACFN has petitioned the government to conduct land scans of the area for unmarked graves of the children who never returned home from Holy Angels school.

Post-Colonialism: As Things Have Been

Continuing on the foundations of colonial violations against indigenous peoples, the post-colonial period has perpetuated heinous acts of neo-colonialism at the expense of the ACFN. The ACFN have eight reserves as provisioned by the Indian Act, "Chipewyan 201, Chipewyan 201A, Chipewyan 201B, Chipewyan 201C, Chipewyan 201D, Chipewyan 201E, Chipewyan 201F, and Chipewyan 201G" (ACFN, 2016). The reserve lands of the ACFN are located "on the south shore of Lake Athabasca, on the Athabasca Delta, and on the Athabasca River" (ACFN, 2016). Figure 6 shows a detailed map with the boundaries of various reserves belonging to the ACFN. The registered population of the ACFN is 1200 people, with about 400 living in Fort Chipewyan. The ACFN's system of governance reflects the 'custom electoral system' established in the Indian Act, the ACFN system consists of a life-appointed Chief, four councillors and a council of Elders which currently has 12 members (ACFN, 2016).

Bitumen crude oil is a natural resource found in Northern Alberta, Canada. Indigenous peoples traditionally combined bitumen crude oil with spruce gum to "waterproof their canoes" (CAPP, 2019a). Since the beginning of industrial oil extraction in the Northern Alberta region in the mid twentieth century, crude oil has been separated from sand using hot water (CAPP, 2021b). In 1967, the Great Canadian Oil Sands project (Suncor) opened (CAPP, 2019a). The remote location of oil extraction sites did not require environmental assessments or health assessments (Turner, 2017, p.284). Industrial oil extraction in the Treaty 8 territory of north-eastern Alberta has caused "the cumulative removal of lands, wildlife and fish habitat as well as the destruction of ecological, aesthetic and sensory systems" (ACFN, 2016). The use of traditional lands and protected rights and practices are limited due to the losses caused by long-term industrial activities (ACFN, 2016).

Figure 7: *Athabasca Chipewyan First Nation Detailed Map*



(ACFN, 2016)

Impacts of oil on the Athabasca Chipewyan First Nation

The intrinsic relationship modern society has with oil is a key contributor to ecological degradation and climate change. Natural resource extraction anywhere in the world is an environmentally damaging, energy and resource intensive activity. Although these factors play a key role in the Alberta oil sands context, the case of oil extraction in Alberta is underpinned by public and private profit. The contextualization of the relationship between industrial natural resource extraction sites and ACFN land reserves is required in framing the Case of Alberta. *Figure 8* offers a visual element to the size of oil operations, as well as their proximity to the ACFN.

Figure 8: *The Oil Sands Whereabouts*

(Einstein, 2006)

Oil operations in north eastern Alberta are extreme energy operations. The oil which is extracted is called bitumen oil, it is a heavy oil which is naturally occurring in this region. The process of bitumen extraction is environmentally taxing, as well as energy and water intensive. It takes 2 to 4 barrels of water to produce 1 barrel of crude oil (Government of Alberta, 2019). Companies operating in the tar sands withdraw water from "the Athabasca River, even when fragile aquatic habitat is at risk" (Environmental Defence, 2013, p.7). "More than 95% of the water drawn from the Athabasca River and used in tar sands operations is too toxic to return to the natural water cycle" (ibid.). The Athabasca River continues upstream from the oil sands to the ACFN and many other communities before it drains into the Arctic Ocean.

The method of separating the natural occurring combination of bitumen, water, sand and clay results in crude oil (CAPP, 2019c). Two methods of extraction are used in the region, open pit mining and in-situ mining. Open pit mining is used when bitumen is no more than 75 metres below ground and in-situ mining is used when bitumen is greater than 75 metres below ground (Government of Canada, 2016). Open pit mining uses large machinery to shovel the mix of oil sand into transport trucks which bring the substance to be crushed and mixed with hot water to facilitate a process of separation. "During separation, bitumen froth rises to the surface, where it is removed, diluted, and refined further" (Government of Canada, 2016).

In-situ mining is a process of steam injection, two wells are drilled into the area where bitumen is located. Steam is injected in one of the wells, while the other pumps out bitumen (Government of Canada, 2016). Both processes use forms of hot water to separate the elements from one another, however, this separation process also includes chemicals which work to isolate the bitumen. Although the oil industry argues for their good labour regulations, what has been largely neglected is desidula and long-term environmental; human health; animal health; quality of life; air quality and water quality impacts. And the tarsands are growing, but in 2015 they already measured about 142,000 square kilometres, which means they were nearly as big as the country of Nepal (CAPP, 2015).

The nature of working in the oil fields encourages transient workers who travel to Northern Alberta to work for a few weeks at a high rate of pay. This type of transient environment has progressed various forms of sexual exploitation and human trafficking. It also perpetuates the issues associated with missing and murdered indigenous women and girls. Although non-governmental organizations and special rapporteurs have conducted inquiries surrounding this issue, there is no solid government action in response to this growing issue (MMIWG, 2019).

So Why Continue?

Despite the visible warning signs, the Canadian government continues to sponsor destructive oil operations. Quantifying the total amount of subsidies or investments from the Canadian government is likely an impossible venture for the public. In a report by Environmental Defence (2021), Paying Polluters: Federal Financial Support to Oil and Gas in 2020, endeavours to understand what breaks the government has extended to the oil and gas sector. During 2020, "the federal government either announced or provided a minimum of nearly $18 billion to the oil and gas sector" (Environmental Defence, 2021). Broken down, this means that $3.28 billion were "direct subsidy programs and $13.47 billion in public financing funneled to oil and gas companies primarily through a non-transparent crown corporation, Export Development Canada"

(Environmental Defence, 2021). Crown corporations serve federal or national interests and are owned by a government body (Kenton, 2021).

The disclosure of federal tax returns on polluters are not available to the public. As of April 2021, Canada had committed to produce 'more than twice the amount of fossil fuels than would be consistent with a 1.5°C temperature limit' (Environmental Defence Canada, 2021). Additionally, Environmental Defence Canada's 2013 Report, Reality Check: Water and the Tar Sands, remarks that from 2011-2012, no oil company was "in compliance with Alberta's Directive 074, which requires modest progress in accelerating the cleanup of liquid tailings waste" (Environmental Defence Canada, 2013). There is a wealth of knowledge readily available for long-term sustainable change, whether indigenous, or scientific. However, multiple levels of governance within Canada maintain short term action for short term gains despite the danger for future generations and the world as we have known it.

> *And these days, even as Canada promotes action on climate change on the world stage, the Canadian and provincial governments are pushing to expand oil sands operations—which brings substantial economic benefits to the region—in the face of a chorus of opposition from environmentalists and indigenous people.*
>
> (Leahy, 2019)

Multinational Corporations collaboration with First Nation and Metis communities could perhaps be attested to international business standards and ethics which creates competition among MNCs for stakeholders and potential stakeholders. Although secondary human rights abuses, environmental abuses, or indigenous reciprocity are not required from federal or provincial government bodies to MNCs, MNCs often establish measures in accordance with popular stakeholder demand. Examples can be observed through MNC marketing strategies. One example, is how most harmful companies, like the tar sands companies, have recently altered their marketing tactics to address climate change. Many of these measures however, are simply window dressing tactics commonly used by businesses to mask the reality of their lack of ethics (Giuliani, 2016, p.42). Canada's ratification of various international laws which work to ensure human rights, are discretionary for the state. However, "a universal human rights approach to business has the advantage of not leaving space for firms' discretionary choices or their arbitrary privileging of some rights vis a vis others" (Giuliani, 2016, p.42).

Although indigenous peoples may be offered employment through oil companies, it is at least in part, at the expense of indigenous culture, cultural preservation and the culture of future generations. Uninterested in implementing aspects of self-determination to indigenous peoples, the federal and provincial governments maintain profits from private, public and crown corporations' oil operations while indigenous peoples suffer the consequences. There is a deeply rooted issue with the fact that the government has failed to put any monitoring bodies in place in an attempt to keep the industry accountable. It is the oil company's responsibility to "have meaningful consultation with Indigenous Peoples, the essence of the problem is that there are no controls" (Heydon, 2021). According to the 2021 Fossil Fuel Finance Report, major oil companies "are still on the path to significantly increase their oil and gas production between now and 2030" (Reclaim Finance, 2021).

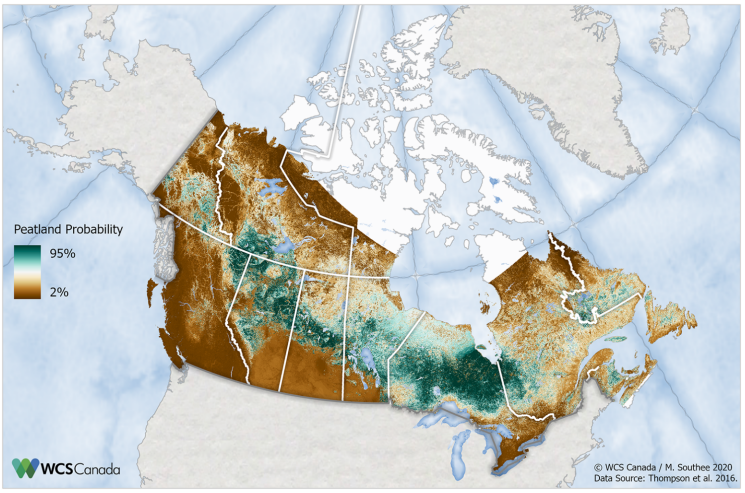
Biodiversity

Associated with open pit mining is the clear cutting of boreal forests, which play a central role in the cultural and quality of life for the ACFN and the world. The boreal forest of Canada covers over 1 billion acres of land (Azelrod, 2017). Alberta's land-base is covered by over 58% of the Boreal Forest Natural Region (Alberta Wilderness Association, 2014). "As of July 2018, 58,384km2 (or 15.4%) of the Boreal Forest Natural Region is protected through the designation of parks or protected areas" (Alberta Wilderness Association, 2014). The counterpart of the Boreal Forest has private or public ownership "managed under a multiple land-use designation" (Alberta Wilderness Association, 2014). The Provincial Government of Alberta stated its intent to establish "Land-use Framework regional plans that outline the integrated management of Alberta's land and resources" (Alberta Wilderness Association, 2014), however, the framework which was established "lacks any legislative support to ensure these principals for responsible management are adhered to" (Alberta Wilderness Association, 2014). As such, clear cutting boreal forest and expanding the space available for oil activities into the boreal forests are admissible.

Figure 9: *Boreal Forest Region of Alberta*

(RAMP, 2009b)

Figure 10: *Peatland Mapping*



(Southee, 2020)

The landscape of Northern Alberta is charaterized by unique Boreal Forests which contain: closed-canopy forests, open forests, wetlands, barren lands, peatlands and grasslands (RAMP, 2009b). The Boreal Forests "include numerous species of coniferous and deciduous trees, shrubs, grasses, and species of fungi and lichens. Large and small mammals have adapted to the harsh conditions of the boreal forest, and billions of birds breed in or migrate through the boreal forest each year" (RAMP, 2009a). Among the large and small mammals who migrate through, or make their permanent habitats in the Boreal Forest of Northern Alberta, are: waterfowl like duck and geese; shorebirds; songbirds; raptors; yellow perch; northern pike; walleye; beaver; snowshoe hare; black bear; moose; and at-risk species, like the woodland caribou and woodland bison (Alberta Wilderness Association, 2014).

The peatlands of the Boreal Forests are the result of the region's climate and of the decomposition of organic matter, known as peat. Peatlands are wetlands which develop over the course of thousands of years, they are sometimes referred to as bogs (Harris et. al., 2021). The peatlands offer indispensable ecosystem services of carbon sequestration, which have cooled the earth's atmosphere over time (Harris et. al., 2021). Ecosystem services provided by the Boreal Forest are critical for surrounding communities whose water and

air are purified by its natural existence (Alberta Wilderness Association, 2014). Within the Boreal Forests, "some bogs have been accumulating peat for over 10000 years" (Department of Earth and Atmospheric Sciences, 2020). Bogs are often drained by human developments like mining projects which causes susceptibility to fires which have the potential to release the stored GHGs (Southee, 2020).

The act of clear cutting the boreal forest is one that destroys ecosystems and impacts climate change, and the climate system. Boreal forests are carbon sinks which store carbon and "play an important role in the mitigation of fossil fuel emissions by sequestering atmospheric carbon dioxide" (Vestin, et al., 2020, p. 1). Stored GHGs are released from clearcutting boreal forests, The act of clearcutting boreal forests "disturbs soils, wetlands, and peatlands, releasing their vast carbon stores, and diminishes the boreal forest's ability to sequester carbon from the atmosphere" (Axelrod, 2017). Boreal forests are a fundamental in the mitigation of "the worst effects of global climate change" (Axelrod, 2017). Clearcutting of Canada's boreal forests is a contributor to the annual GHG emissions of Canada. Clearcutting reasons for "an estimated 26 million metric tons of carbon dioxide emissions annually—an amount equivalent to the annual emissions of 5.5 million vehicles" (Axelrod, 2017).

Nearly 94% of Canadian forests are on public land, which means the forests are managed by the Canadian government, and can be surrendered to economic affairs at the discretion of the government (Government of Canada, 2021a). The provincial government of Alberta maintains 90% of jurisdiction over forest management in Alberta (Government of Canada, 2020). The Federal government owns 4% of Canada's forests, and take on the responsibility of regulation and management of forests on lands including departments of "Aboriginal Affairs and Northern Development Canada; Department of National Defence; Natural Resources Canada; and Parks Canada" (Government of Canada, 2020). For the purpose of this research, the two notable departments of Federal forest ownership are the departments of Aboriginal Affairs and Northern Development Canada and Natural Resources Canada. Federal government ownership of these forests suggests the authority Federal government has over the forests of Indigenous peoples forests, as well as Federal governmental influence over long-term forest surrendering for the purpose of natural resource extraction. Boreal forests are protected by the CBD, the federal government has claimed that the boreal forests are vital to human health (CBD, 1992; International Affairs and the Environment, 2020a).

Figure 11: *Clearcut Boreal Forest*

(Willms, 2019)

Figure 12: *Open pit mines*

(Brower, 2022)

Figure 13: *Tailings Pond*

(Willms, 2019)

Figure 14: *Suncor tar sands facility with tailings ponds*

(Marshall, 2018)

Figure 15: *Industry and tailings pond*

(MacLean, 2020)

Figure 16: *Toxic sludge dumping into tarsands*

(Rowell, 2014)

Tailings Ponds, Water, Glaciers and Impacts

The oil region of Alberta has many large bodies of toxic sludge where the remnants of the bitumen extraction process are drained, these bodies of water are referred to as tailings ponds. Following the separation process of the isolation of bitumen, "the water/chemical mixture, now containing lead, mercury, arsenic, and other chemicals, is pumped into the tar sand's open tailings ponds" (Lieberman, 2020). As of 2017, tailings ponds held "1 trillion litres of sludge that is unlike any other industrial byproduct in the world. They contain a unique cocktail of toxic chemicals and hydrocarbons that will remain in molasses-like suspension for centuries if left alone" (Berman, 2017).

Although the technology of oil extraction processes have improved since 1967, the process remains inefficient and environmentally damaging which results in broader issues. The overall volume of tailings has kept growing for more than 50 years (Leahy, 2019). According to the non-governmental organization, Stop Ecocide, "the Athabasca tar sands are the biggest [land and water contaminating] operations, devastating wildlife, indigenous lands and creating scars visible from space" (Stop Ecocide International, 2020). The toxic waste storage by use of open, unlined tailings ponds are unfortunately not governed by any bodies of accountability (Berman, 2017). The tailings ponds are hazardous to waterfowl and other wildlife, as they either assume the tailings ponds are freshwater lakes, or are harmed by the chemicals leached into other water sources, like fresh water rivers and lakes. Protected under the Ramsar Convention, the Peace-Athabasca Delta is directly affected by downstream oil operations (Ramsar Convention, 1971).

Furthermore, waterfowl often land on the tailings ponds mistaking them for sedentary lakes. They fall from the skies or are completely consumed by the oil residue within the toxic lakes. This is a violation of the Ramsar convention and lacks a component of animal protection and the risks of death to waterfowl, as well as other animals. On one occasion alone, "230 waterfowl had to be euthanized" (CTV, 2010) because they came into contact with bitumen which was floating on the surface of a tailings pond.

The tailings ponds seep into groundwater, during the winter the tailings ponds are covered with snow which melts and results in the pollution of freshwater sources like the Athabasca River, which flows through ACFN reserve lands and Fort Chipewyan. The Athabasca River continues to meet other bodies of water, like

the Athabasca Lake and continues to flow contributing to clusters of ponds, lakes and streams. The water of the Athabasca river is eventually carried into the Arctic Ocean. The issue of water contamination is one that causes many subsequent and complex issues with limited data and monitoring. Another issue associated with the Athabasca River is presented by climate change. Nearly every stage of oil extraction in northern Alberta contributes to climate change and damages the environment. From the clear cutting of boreal forests for the purpose of mining; to the mining process; to the transportation of oil to refineries, or to on site refineries; to the excess being dumped into tailings ponds; to the shipment of crude oil to subsequent refineries; to the refinement process; to the consumer; to the burning of the fossil fuel by the consumer.

The impacts of climate change will impact glaciers and snow packs globally, they "will disappear in some areas, affecting the freshwater supplies to those downstream communities. These changes will combine to make less water available for agriculture, energy generation, cities and ecosystems around the world" (WWF, 2012). The consequences of climate change affect Alberta's fresh water sources. The preservation of the Athabasca River is necessary in the protection of human rights (UDHR, art. 3, 1948; CRC, art. 6 para. 1, 1989; Canadian Charter of Rights and Freedoms, section 7, 1982). It is an important freshwater source, and its preservation is an issue of national concern which requires immediate action, follow-up and long-term planning. Elements of concern with regard to preserving the Athabasca River are water scarcity; global fresh water stocks; water accessibility; water sources of the Athabasca River; and the risks these issues pose for the Athabasca region.

The Athabasca River's headwaters glacial melt from the Athabasca Glacier in the Rocky Mountains of the Columbia Icefield in Jasper National Park, Alberta (RAMP, 2009c). The river travels around 1500 kilometres from mid-south western Alberta to north eastern Alberta where the Athabasca and Peace Rivers join in draining to Athabasca Lake. The Athabasca river is unregulated, meaning it is not dammed and the water supply flows freely without any man made regulators. The convergence of the Athabasca and Peace Rivers is called the Peace-Athabasca delta which hosts "one of the world's most ecologically significant wetlands and has been designated as a Ramsar Convention wetland and a United Nations Education, Scientific and Cultural Organization (UNESCO) World Heritage Site" (AU & Athabasca Watershed Council, 2015). From Athabasca Lake, water flows into the Slave River into Slave Lake, and goes on to the Mackenzie River. The Mackenzie River then drains into the Beaufort Sea basin of the Arctic Ocean.

The Athabasca River basin encompasses about 159,000 square kilometres of Alberta, which means it covers around 24% of the province's surface area and plays an important role in ecosystem services across the province (RAMP, 2009c). The landscapes of the basin are diverse in nature, some of which include "snow-capped mountains, agricultural plains, boreal forest, wetlands, and small urban centres" (RAMP, 2009c). The Athabasca River basin's provisions of vital ecosystem services to a range of biodiversity across Alberta has been increasingly disrupted by human activity. Such a disruption is primarily due to economic profit in natural resource exploitation in the region. A byproduct of the federal and provincial government's favour of economy over ecology has proven detrimental, not only to the environment but also to human health. A very unfortunate outcome from this is that industry's actions and governmental endorsement has caused fresh water to become toxic and the glacier's to melt at alarming rates.

In 1997, there were 35 million cubic kilometres of fresh water stocks globally for long term use. Due to the geographically removed nature of many fresh water sources, it is of great consequence to all life forms

to preserve easily accessible fresh water stocks. “By 2025, two-thirds of the world’s population may be facing water shortages. When waters run dry, people can’t get enough to drink, wash, or feed crops, and economic decline may occur” (WWF, 2012). An example of the implications of water scarcity and industrial pollution to broader society can be illustrated by the case of the Aral Sea in Central Asia, which in the 1990’s was the world’s fourth largest freshwater lake.

> *But in only three decades, the sea has lost an area the size of Lake Michigan. It is now as salty as an ocean due to the excessive pollution and the diversion of water for irrigation and power generation. As the sea has retracted, it has left polluted land. This ecological catastrophe has created food shortages and resulted in a rise in infant mortality and a decrease in life expectancy for the nearby population.*
>
> (WWF, 2012).

Although the cases of the Aral Sea and the Athabasca waterways differ, they are similar in nature which can be illustrated by two factors. The first factor is that the Athabasca Glacier is melting at unprecedented rates which will cause provincial water scarcity, as well as, negative impacts on freshwater ecosystems (Clarke, 2015). The second factor is industrial pollutants causing water toxicity and chemical presence in accessible fresh water. According to a 2015 report by the University of British Columbia, by 2100 drier regions of the Rocky Mountains (which would constitute most of Alberta’s mountains) “could lose up to 90 per cent of its glacier” (Clarke, 2015). Over the past 125 years, global warming has caused the Athabasca Glacier to lose half its volume and recede more than 1.5 kilometres (Parks Canada, 2017). This means the Athabasca Glacier is receding 200 times faster than normal.

Should the Athabasca Glacier melt, there will be no more water for oil extraction, there will be water scarcity across 24% of Alberta and the ACFN will no longer have access to water. Without a glacier to land on, snow and other forms of precipitation will lack a place to land which means there will no longer be a sustainable collection point to sustain the river. This also introduces the issues associated with cultural and spiritual indingeous aspects. Research has proven that due to climate change glacial receding, and subsequently, fresh water scarcity is a major international issue. Due to man made climate change, industrial activities such as the Athabasca oil sands will cause global deglaciation at a rapid rates. It therefore creates a global necessity to “limit global warming to well below 2, preferably to 1.5 degrees Celsius, compared to pre-industrial levels (UNCC, 2022b).

The cyclical nature of the impacts of the oil sands require immediate reassessment and the implementation of efficient, long-term monitoring mechanisms and legal repercussions should violation occur. The somewhat, linear cycle caused by climate change, a major contributor to which is the oil operations in northern Alberta can be synthesised into five parts. The first is deglaciation, which could potentially cause increased rates of animals to drink and bathe in the tailings ponds. The second is higher temperatures caused by global warming. The third is the caused the contribution from the industry in burning fossil fuels. The fourth is the fossil fuel industry’s dependence on the Athabsaca glacial river to maintain industrial oil operations. And the fifth is what little water is left is being contaminated by oil operations chemical outputs which are used by upstream communities and animals as drinking water, which then drain into the Arctic ocean.

This becomes an issue of international concern for two major reasons. The first reason is that over the past 30 years, the Arctic has been warming at about twice the rate of the global average (NSIDC, 2020). This

means that if GHGs are not limited immediately, “the world will continue to feel the effects of a warming Arctic: rising sea levels, changes in climate and precipitation patterns, increasing severe weather events, and loss of fish stocks, birds and marine mammals” (WWF, 2022). The second reason is that the Athabasca River carries toxic substances from the tarsands region to the Arctic Ocean. Meaning toxic chemicals are emitted into the Ocean which are dispersed internationally.

In the case of Northern Alberta’s industrial oil operations, upstream from the Athabasca Chipewyan First Nation, chemicals, oil and other hazardous substances have been found in the freshwater upstream from the tarsands (Timoney, 2007). The ecological destruction and health implications caused by the hazardous chemical runoff carried by the Athabasca River has caused concern in upstream populations for decades, however, government bodies have been reluctant to listen, or implement long-term substantial changes in favour of the protection of humans, their environment and the future of the integrity of the earth.

Fish, Animals and Humans

The oil extraction process emits pollutants into the air and water, causing damage to the environment and water ways, resulting in health defects, cancers and sicknesses among wildlife and humans alike. The proximity of the ACFN from the downstream oil operations present considerable risk to the right to life, where the inability to practice indigenous culture already exists due to the fact that idnigenous peoples are rendered unable to hunt and fish which violates their treaty rights (Treaty 8, 1899). This draws on the multilateral, legally binding Ramsar Convention, 1971, which recognizes the “interdependence of man and his environment” (Ramsar Convention, preamble, 1971). However, within this region, humans have been rendered unable to depend on their environment.

Fish are caught from the Athabasca River, or Athabasca Lake with deformities from chemical exposure. Animals are hunted and slaughtered but appear to have plastic organs (Telegdi, 2021). The ACFN know the risks involved with continuing to live in their traditional lands, as well as the risks with hunting and consuming fish and animals from their traditional areas. This environmental destruction is another method by which Indigenous People’s rights are being violated. Although industry and government argue they are not keeping the ACFN from practicing their treaty rights of hunting, fishing and being outside, the animals are poisoned, the fish are poisoned and outside is poisoned, all by toxic industrial activity (Telegdi, 2021; O’Connor, 2021). When hunting or fishing, it is common for Indigenous Peoples to cut the animal open and find tumors inside, or to cook the animal and have its flesh taste like some kind of plastic (Telegdi, 2021), or oil (O’Connor, 2021).

The reason for the ACFN’s concerns to partake in such activities is directly associated with toxic pollutants leached into the air and water which cause sickness and cancers in fish and animals. “Governments are propping up an industry that is killing us. A recent report found that one in five premature deaths is caused by air pollution from burning fossil fuels. In Canada, that’s 36,000 people a year” (Environmental Defence Canada, 2021). The ACFN are concerned that fishing and hunting will result in health issues as many ACFN members have died from toxic associated sicknesses. Seriously harmful contaminants in water, upstream from the tar sands including: arsenic, mercury, and polycyclic aromatic hydrocarbons are “sufficiently high to present a risk to either humans or wildlife” (Timoney, 2017, p.66). Arsenic alone has been associated with causing lung and skin cancers (ATSDR, 2010), unfortunately data pertaining to direct links between chemicals

and cancers found among upstream communities like the ACFN are limited. A further development of understanding surrounding contaminants and their source is necessary in attempting to protect those who live upstream from the tar sands (McLachlan, 2014, p.17).

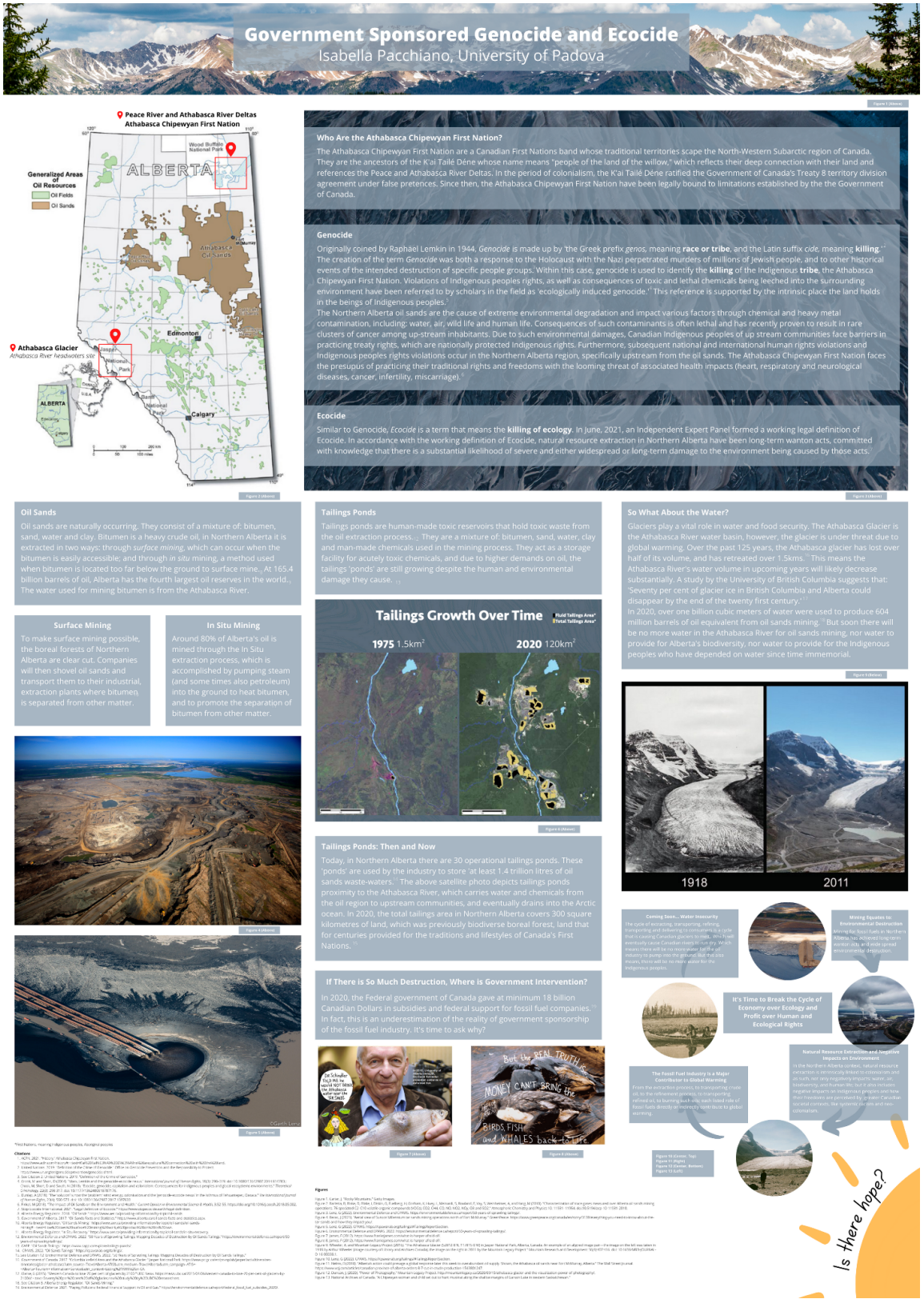
Indigenous stewardship of the environment is intrinsically connected to spiritual and cultural aspects of the ACFN. Globally, indigenous environmental defenders are located in isolated places, far away from urbanized centres. Due to various factors perhaps including the removed nature of the ACFN, issues that have arisen in association with the oil sands are not widely talked about or shared in experience. Air pollution is another issue dealt with by the ACFN, a 2018 study found that acid emissions from the oilsands cause acid rain that could "acidify an area the size of Germany" (Weber, 2018). ACFN parents who have had still born babies associate infant mortality with oilsands pollution (Leahy, 2019). Subsequently, ACFN parents who have children with heart issues associate such health problems with oilsands pollution (Leahy, 2019).

Many ACFN members voice their fear regarding the risks in maintaining a traditional lifestyle, or maintaining a life at all in Northern Alberta with such close proximity to the tarsansd. The community is riddled with cases of cancers, namely a rare form of bile-duct cancer called '*cholangiocarcinoma*.' Because of the fear of contracting illnesses or cancers, ACFN members refrain from hunting, and it is not uncommon for members to actually move away from the community (Lawrynuik, 2019). The rights established in treaty 8 are infringed upon due to the high rates of deformities in fish and animals. Fish caught near Fort Chipewyan are "considered too polluted for human consumption" (Leahy, 2019). By the end of 2019, 11 people had passed away in the ACFN community, 8 of which were a result of varying forms of cancer (Lawrynuik, 2019). On average, a community of about 1,200 people might have about 39 cancer cases, however, a study in Fort Chipewyan found "51 cases, a difference of 30.7%" (Lawrynuik, 2019). In 2009, a follow-up study by Health Canada was required to assess what was causing the issues, however, such a study was never carried out (Lawrynuik, 2019).

Similarities

There are various cases that have transpired globally that are similar to this case, especially with regard to the modus operandus of the British Empire. However, the case of the ACFN, colonialism to neocolonialism and the common theme of human rights violations and violations to international environmental agreements of any nature, is extremely unique to this case. What remains similar between the circumstances of the ACFN and other cases is the potential the community has to receive justice for the issues they have been exposed to and experienced. The association of chemical toxins with diseases, which by community action were presented to government, ascended to court and were brought to justice. Cases of a similar nature include: *Woburn* where environmental contamination resulted in "severe illness and often death" (Brown & Mikkelsen, 1997). And the *Love Canal* where toxic dumps unknowingly became the foundation of a community which experienced elevated health issues in association with toxins (Thompson, Rothman & Regan, 2018). Both cases were brought to national (United States) attention and were characterized by their tenacity in achieving justice. The case of the ACFN has the potential to receive similar attention and subsequent justice, however requires a broadened scope respective to the term the ACFN has been exposed to toxins, as well as to reflect the historical aspects of colonial injustices.

Figure 17: *Overview*



(Isabella Pacchiano, 2022)

Whistleblowers

This section shares the experiences of two whistleblowers, Dr. John O'Connor who advocated on behalf of the ACFN; and Franke James who with her art brought awareness to the suspicious behaviour of multiple levels of government. As a Doctor to the ACFN, Dr. John O'Connor became very invested in the ACFN community. He brought the case of the ACFN and high rates of rare cancer to the attention of the health board of Canada. Franke James, a Canadian artist and activist brought awareness to the realties of the oilsands, oil transportation and environmental repercussions of the oilsands in her visual essays. Both whistleblowers participated in interviews for the purpose of this research to advocate for the ACFN, and raise awareness about health and climate change.

Dr. John O'Connor:

During his time stationed as a physician in Fort Chipewyan, Dr. John O'Connor grew concerned with the rates of Cholangiocarcinoma (Bile duct cancer), as it is a quite aggressive and rare cancer. Within the population of Fort Chipewyan, Dr. O'Connor (2021) stated that he encountered "7 cases of Cholangiocarcinoma in a population of just over a thousand." He went on to say that "the Chipewyan First Nation is an isolated and traditional community," and saw "lots of parallels between the environmental changes the elders spoke about in the health of elders and younger generations (O'Connor, 2021)." It was in January 2016 when Dr. O'Connor "raised the profile of the community to provincial health authorities" (O'Connor, 2021). Although Dr. O'Connor was advocating for the community, the case raised that asked for help was not gaining traction. He said, "very curiously, Health Canada sent 3 physicians out to the community and assured the community there was nothing to be concerned about' (O'Connor, 2021). As he recounted the events, he shared that one of the physicians stood in front of the concerned elders, nurses and others, filled a glass of water from the faucet, and drank saying: "You see, there's nothing wrong with the water here in Fort Chip" (O'Connor, 2021). Dr. O'Connor stated that the action of the physician was "emblematic of Health Canada's concerns for the community," as "it was his first visit to Fort Chip" (O'Connor, 2021).

> In March or April of 2007, Health Canada promised the community they would look into cancer incidents in the community, they asked the nursing station to gather the documents of any patients who passed away. So, everything was boxed and sent to Health Canada, they said not to expect to see these back before September. In May 2007, Suncor applied for an expansion; they needed a green light from the **Alberta energy regulator.**
>
> (O'Connor, 2021)

Concerned citizens attended the meeting to voice their reservations; Health Canada was also in attendance and claimed that the findings they had taken a month or two prior had gone under independent study, and that "29% higher incidents of cancers were found among residents of Fort Chipewyan" (O'Connor, 2021). The health board tried to have Dr. O'Connor's medical licence withdrawn for the claims he had made against the government. He was in some ways forced by the government to stop his advocacy, he was fired from his station in Fort Chipewyan and faced various difficulties as it related to practising medicine after he had treated and reported the number of rare cancers he had encountered. Dr. O'Connor's journey of advocacy continued and continues still with the work that he does for the sake of health among communities upstream from tar sand operations. Unfortunately the Athabasca Chipewyan First Nation did not receive any form of

justice from Dr. John O'Connor's advocacy. In fact, water pollution has continued after drawing public attention to the matter.

Franke James

Franke James was scheduled to travel to Europe on an trip to raise awareness about the oilsands in Canada, create art and encourage students in their discovery of various global issues. However, James was stopped at the highest level of Canadian government. Her response came in the form of various visual essays through which she was able to convey many intersectional messages regarding highly impactful issues pertaining to the oilsands in Northern Alberta. In an interview, Franke James (2021) asked the Minister of Natural Resources:

> *"Would you let your family eat the fish or drink the water from the Athabasca River? I was recording, he knew I was recording and so Joe Oliver said to me, "I don't know enough about the Athabasca River. I would want to know from the government, whether it's safe." How can the Minister of Natural Resources not know about the Athabasca, it's right beside the tar sands. And shouldn't the minister tar sands mining know that the tar sands are polluting the air, land and water? I had with me Environment Canada's Report on the Oil Sands, which was labelled secret, but it had leaked out and you know, he would have been reading it. When I showed it to him, he said "well, it's secret to me too. I don't know if it came before I was appointed… well in any case it's not my ministry." And then and then I said, "but it's been out in the news for a while," and he admitted, "yeah, yeah, yeah, I've heard something." The contamination of the Athabasca River is a high-profile concern. You know, elevated levels of pollutants near mining sites, it's just horrible. But they know the problem is there and they don't pay attention to it.*
>
> (James, 2021)

Lobbying: Oil Companies

Despite the fact that the oil industry is well known to be the major responsible for carbon emissions in Canada, those policies needed to tackle the issue by finally establishing clear and appropriate environmental regulations have historically been hampered and delayed through effective lobbying campaigns by oil companies. The main role in lobbying in favour of petroleum companies operating in Canada is played by the Canadian Association of Petroleum Producers (CAPP), representative of companies producing about 80% of Canada's oil and natural gas. A report commissioned by Environmental Defence found that "the election wish list published by the Canadian Association of Petroleum Producers (CAPP) would increase Canada's carbon emissions by 116 million tonnes" (Environmental Defence Canada, 2019), which would result in Canada emitting more than other 170 countries in the world. The oil and gas sector, currently responsible for 27% of Canadian greenhouse gas emissions, has not only "almost doubled its emissions since 1990" (Environmental Defence Canada, 2019) to represent the "greatest and fastest rising source of carbon pollution in Canada" (Environmental Defence Canada, 2019), but has not also fulfilled the commitment to reduce the carbon emissions per barrel which has at the contrary increased by 16%. Crucial in this perspective is the fact that, as this article published on the *Prestige Journal Science* points out, Canada has the fourth highest country level

CI among global oil producers, due to “energy- and CO2-intensive heavy oil extraction and upgrading” (Masnadi et al., 2018).

Readers might be wondering how this was possible, and the answer is to be found in the fact that companies involved in the business of extraction and commercialization of oil and gas have consistently “contributed to weakening existing environmental policies and killing or delaying proposed climate policies. One of the main ways they do this is by having paid lobbyists continuously meeting with government officials” (Environmental Defence Canada, 2019). If the government buckles once again to the requests of these lobbyists, it will mean that Canada would with no doubt not just give up its commitments under the Paris Agreement, but even increase its emissions “by an estimated 116 million tonnes per year by 2030” (Environmental Defence Canada, 2019). Academic research found that various actors representing fossil fuel interests, among which the main ones were CAPP, the Mining Association of Canada (MAC), TC Energy Corporation and Suncor, “had 11,000 meetings with the Canadian government between 2011 and 2018” (Environmental Defence Canada, 2019).

After the change in government resulted from the election of the leader of the Liberal Party Justin Trudeau in 2015, at the expense of the Conservative Party which held power in the 9 previous years, the hope was that of a change of paradigm following the promise the winner had made throughout the elections campaign, but reality showed an opposite trend. During the last 6 years, “lobbying by oil and gas companies and their associations increased by ten percent overall” (Environmental Defence Canada, 2019): as is clear to be expected, this heavily undermined the government climate-related agenda and caused instead a continuous rise in Canada's emissions under the Trudeau government. According to data provided by the Office of the Commissioner of Lobbying of Canada, “government officials were lobbied on 6,874 unique occasions between Trudeau’s election in 2015 and this spring, representing an average of five lobbying contacts per working day and significantly more than other industries” (Environmental Defence Canada, 2019). Additionally, it is interesting to look at the work of William Carroll, a professor of sociology at the University of Victoria and Co-Director of the Corporate Mapping Project who has studied the impact of lobbying on federal policy. His findings reveal “a significant shift in lobbying under Trudeau, moving away from elected officials to unelected bureaucrats, which Carroll describes as the emergence of deep oil state in which entrenched oil interests may even qualify as a «state within a state” (Environmental Defence Canada, 2019).

As if it was not enough, the leak of a secret memo sent by the CAPP to the federal government in the wake of the COVID-19 crisis, calls for “the adoption by government of a flexible approach to compliance for certain low-risk regulatory requirements” (CAPP, 2020), as a response to the “unprecedented fiscal challenges” (CAPP, 2020) resulting from the pandemic. But it is pretty evident how this has nothing to do with Covid or the other crisis that Canada and the rest of the world are experiencing, but rather with an attempt to make a profit out of the situation and achieve what in a more stable situation would be more complicated.

Lobbying: Alberta and Ukrainian War Influence

Alberta Energy Regulator, what can be considered as Alberta’s energy watchdog, reported in a report published this year, dozens of violations as it takes on regulating the oil and gas industry’s methane pollution (Meyer, 2022). In the report itself, the regulator admits several issues that were to be faced in delivering this work as well enforcing its rules upon completion of the 266 methane inspections that were

carried out, of which 32 were considered to have unsatisfactory outcomes (Meyer, 2022). But, even more worryingly, the provincial government didn't even mention this aspect in the dedicated press release, while successes were claimed in meeting targets related with methane emissions that according to the regulator were actually prior to the new regulatory framework. These issues seem not to be surprising but can instead be explained with the intense lobbying operation carried out by the fossil fuel industry to soften the rules and the recommendations given to the facilities found to be breaching regulations. Before, the Oil and gas company Canadian Natural Resources Limited and CAPP, had already succeeded to obtain changes they requested in the final rules adopted in December 2018 (Meyer, 2022).

Kevin Taft, who has served for many years in the side of Alberta's provincial government within the Alberta Liberal Party ranks, called to discuss about his book Oil's Deep State: How the Petroleum Industry Undermines Democracy and Stops Action on Global Warming — in Alberta, and in Ottawa, reflects on the failure by the Alberta NDP in tackling the issue of the oil sector dominance over politics. In his own words, Rachel Notley, elected as premier in 2015, found herself in a situation in which her closest advisers in the civil service were very tight with the industry. You could almost say the Alberta Energy Regulator is run by the industry: it's financed by industry and the chairman is a former industry executive. She was surrounded by pro-oil forces (Wilt, 2017). And, he continues saying the interests of the oil industry are not the same as the interests of the people of Alberta (Wilt, 2017).

And surely the latest events are not playing are not playing a positive role. Following the Russian invasion of Ukraine and the ensuing war, U.S. Senator Joe Manchin visited Alberta in April of the current year and met with Alberta Premier Jason Kenney to discuss the arising energy security issues which followed the ban on the import of Russian oil. The provincial government of Alberta identified in this situation a great opportunity to expand its oil export to the United States and invested for this purpose in a massive communication and lobbying activity in the U.S. Senate as well as in U.S. media outlets. Chair of the Senate Energy and Natural Resources Committee, Manchin surely represents a key ally since he has publicly sponsored the increase of Canadian oil and gas. In an advertisement campaign, Americans were invited to "look north" for their energy needs. Anthony Swift, Canada program director at the Natural Resources Defense Council, an environmental advocacy group, rejects Alberta's argument that countries should import Canada's '*ethical oil'* as an alternative to oil from countries where profits may be used to "fund terrorism, violence and global instability" (Cloutier, 2022). However, Alberta's oil cannot be considered ethical in light of the harm it causes to the indigenous population and to the environment. This is an explicit case of double standards with regard to human rights.

Closing of the Case of Alberta

Within the Case of Alberta, the byproducts of colonialism and subsequent neocolonialism were identified throughout. The ACFN have been discriminated against throughout history, their story remains undertold and quietly spoken of among Canadian government officials. The fact that downstream oil operations cause high rates of rare cancers among the small community of indigenous peoples is alarming. This alone requires immediate redress. However, to then take the wholeness of the situation into account is devastating. From the Canadian paradigm beginning with the first forms of European colonizers, the indigenous have been racially profiled, and discriminated against. The form

colonialism takes today in north eastern Alberta is a violation of human rights and a violation of the environment. The ongoing advocacy by various activists, environmentalists, non-governmental organizations and indigneous peoples is needed in establishing better outcomes for a brighter future.

The rate at which tailings ponds are growing is one which will continue unless the international community rallies together and brings accountability to the unaccountable Canada. Although industry and government may argue for oil operations in Canada to continue, perhaps even to accumulate more workers, Sweden was able to increase its GDP while diminishing its GHGs. If Canada begins a new trajectory it can do the same from a space of international honesty. The irreversible environmental damage, and human lives taken as a result of such damage was perhaps not the intention of industry, however it was a byproduct of its actions. Although industry perhaps did not set out to commit ecocide, in effect it did (Stop Ecocide Foundation, 2021). Subsequently a byproduct of the acts of ecocide have been the act of genocide (Rome Statute, 1998; Genocide Convention, 1948).

The rates of sickness in the ACFN are not normal, neither the rates of death due to cancers. Although the government of Canada has taken some action pertaining to the health situation of the ACFN, there is room for sustainable changes. The ACFN is in need of a government willing to establish long-term changes for a future much different from its past. Canada is obligated to promote the survival and development of the child (CRC, art. 6 para. 2, 1989), as well as, consider the risk of environmental pollution (CRC, art. 24 para. 2 section c, 1989). As such, new laws and agreements are required with MNCs and general downstream industrial operations.

Recommendations

The ACFN have been discriminated against, their rights have been held from them, genocide has been committed against them, environmental destruction at their direct expense the future does not need to mimic the past. However, in order to move forward and to heal from the past, governmental redress is required at every level of Canadian and British governance. The ACFN, and all indigenous Canadians require not only apologies for what has transpired in the past, but collaboration in re-addressing in visiting the past, and establishing new ways forward.

Although the issue of the oil sands is a complex issue that has caused countless problems for the Athabasca Chipewyan First Nation, it is not the root problem within this complex framework. Oil sands and their toxic pollutants which affect the ACFN is a byproduct of the greater neocolonial paradigm experienced by the community. Through attempting to build an answer to the question: "How does oil extraction impact the Athabasca Chipewyan First Nation?" Although the impacts are insurmountable, what was discovered was the long term role of colonialism, and how evident colonialism is within contemporary governance and the greater Canadian society.

In order to achieve long term sustainable, societal solutions, a space to encourage the comfortability and equality of indigenous peoples is necessary. From this space, perhaps solutions can be formed with indigneous voices at the forefront. Racialized conduct maintained throughout history requires action of many actors willing to establish change, and implement subsequent change. Within this research the names of allies to the attainment of equality have been mentioned, it is through alliship within the national and international contexts through which issues riddled with complexities will be addressed sustainably. On the basis of equality, the government of Canada is in desperate need of reform. Historic events are in need of appropriate redress, with indigenous voices narrating issues that were experienced.

International legal sources which have been ratified by Canada require honest implementation. As such, efforts toward decolonization are necessary in order to establish and maintain equality within modern society. Furthermore, decolonial efforts are required with the agreement and collaboration of members of society as well. The broad response of the breadth of society is necessary due to the nature of systemic racism, although it is necessary for the government's action to initiate such efforts. With regard to historical events, the gathering of non-governmental organizations, international actors, national government and indigenous peoples are necessary to initiate conversation of healing and sustainability. As such, the following legal recommendations are to be understood as a basis founded upon the limited research laid out within this research.

The international legal frame drew attention to the extensive legal mechanisms available to nation states. Both binding and non-binding legal instruments were established in order to illustrate the many options available to states with regard to hard and soft law. To begin with, the UDHR's established foundations on equality are fundamental considerations within the dialogue of neocolonialism. As the perpetuated histories of colonialism act as barriers for the ACFN, and other indigenous peoples who have been racialized throughout history, to access the most basic fundamental human rights. If Article 1 of the UDHR had been implemented in Canada, the oil sands would be downstream of the Bow river, next to the City of Calgary. However, because inequality is present within

Canada, especially racial inequality, the oil sands operate in the remote area, emitting the lionshare of its toxins to the ACFN.

Furthermore, the UDHR establishes that rights and freedoms should be extended without distinction (UDHR, art. 2, 1948). It also provides that members of society have the right to social security and the right to national and international protection through legal cooperation, organization and resources of their state: "economic, social and cultural rights indispensable for his dignity and the free development of his personality" (UDHR, art. 22, 1948). However, in the context of the ACFN, members are not extended these rights. Children can no longer safely develop their personalities in the context of social or cultural rights. Adults cannot develop economically while maintaining social and cultural rights due to the lack of jobs in the area. Should an ACFN member choose to work in the oil industry, some parts of social and cultural rights are inherently forsaken. Furthermore, any person who lives in upstream regions from the oil sands places their life at risk.

The ICCPR extends the right to self determination however, within the context of the ACFN, members are not free to pursue their economic, social and cultural development (ICCPR, art. 1 para. 1, 1966). Members are constrained by pollutants in oil outputs. There is little freedom to practice social or cultural development, solely if the member chooses to stay upstream from the oil sands, therefore risking their lives and the lives of their families. The ICCPR also provides that if the rights or freedoms recognized in the covenant are violated, the party violated against "shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity" (ICCPR, art. 2 para. 3 section a, 1966). However, the ACFN have not yet encountered effective remedy regarding the government of Canada profiting on the pollution that is actively killing indigenous group, and keeping them from practicing their indigenous culture.

The ICESCR provides everyone with the right to self-determination, and the rights to national resources however, colonizers argued the resources belonged to them despite the factor of indigneous peoples having been first on the land which wsa being claimed away from them. The ICESCR also provides rights without discrimination, as well as the right to work. Although Canadians have the right to work, in the oil fields, it is at the expense of the environment and at the expense of the ACFN. The covenant also establishes everyone's right to an appropriate living standard, but this is not possible for the ACFN due to the chemicals leached into water that infect biological diversity, flora and fauna (ICESCR, art. 11 para. 1, 1966). Action regarding the reduction of rate of still births and infant mortality is outlined within the ICESCR, however the state has not regulated this region, in fact, it has perpetrated the opposite (ICESCR, art. 12 para. a & b, 1966).

The UNDRIP provides that indigenous peoples have the right to development in planning and strategizing health and housing, however the state has not implemented participatory frameworks or sustainable approaches of such implementation (UNDRIP, art. 23, 2007). The UNDRIP also extends the right to traditional practices, however, this has increasingly been limited by the pollution of oil operations (UNDRIP, art. 24, para. 1, 2007). The declaration also emphasizes the indigenous spiritual relationship with the land, however, this aspect is overlooked within the Northern Albertan paradigm (UNDRIP, art. 25, 2007). Furthermore, the UNDRIP provides the rights indigenous peoples have to the land, and the right to do what they want with the land, and the ordinance of states to extend legal authority to indigenous peoples over their

traditional lands (UNDRIP, art. 26 para. 1, 2 & 3, 2007). Although provided for, appropriate measures have not been taken to mitigate violations of environmental, economic, social, cultural or spiritual impacts among members of the ACFN (UNDRIP, art. 32 para. 3, 2007).

It is recommended that the state adopts the ILO's C169 - Indigenous and Tribal Peoples Convention, 1989 (No. 169) (ILO Convention No.169, 1989) in order to promote the protection and cooperation of indigneous peoples. Through ratification, the state would extend agency to indigenous peoples, it would fill legal gaps and if adequately implemented has the capacity to change the lives for current and future generations. It is also recommended that through extensive decolonization efforts and processes, that the CERD, CEDAW and CRC be comprehensively adopted and reflected within multi-levels of governance and legislation. It is necessary that Stockholm Principles be meaningfully implemented within Canadian legislation and legislative practice. The necessity of implementing the UNFCCC is of immediate importance, and should be paired with the sustainable implementation of the Paris Agreement and Canada should meet requirements set out by the Kyoto Protocol as well as sustainably implement that which is laid out in the Montreal Protocol. It is also necessary for the Ramsar Convention and CBD to be respectively implemented in order to protect what environmental integrity remains in Canada.

The re-creation of legal documents, agreements and conventions with the connectivity of indigenous voices is necessary within a framework of reconciliation. The acts committed against humans and the environment can be brought through various legal mechanisms laid out within the international legal frame. This case should be brought to the International Criminal Court in order to impact not only this case, but other cases of violations and injustices similar to it. Should it be brought to the highest court, it has the potential to establish long-term sustainable change, furthermore, it has the potential to be brought forward by an indingenous person whose desire it is to advocate for their peoples.

Cases of government censorship allude to government knowledge of the toxic risk factors associated with the illnesses among the ACFN. The nature of conduct from Health Canada to the situation, and their lack of redress or concern demonstrates their complacency and compliance with oil companies. If at first industry did not know of the killings of indigenous peoples associated with toxins from the oilsands, they were made aware by Dr. O'Connor and other doctors who spoke out at the time. Around 2011, when the government of Canada was attempting to remove Dr. O'Connor's medical license because of his awareness to the cases of acute, rare cancers in the rural community, the government could have acted against the pollution of oil companies. This signifies the government as a complicit party in the deaths of indigenous peoples from the point of Dr. O'Connor coming forward to the present moment.

With the intention of sheer profit, industry and government have sponsored and committed ecocide and genocide. Perhaps neither ecocide, nor genocide were intentional, both were byproducts of oil operations. The fact remains that through oil production, unlawful and wanton acts were committed with knowledge that there was a "substantial likelihood of severe and either widespread or long-term damage to the environment being caused by those acts" (Stop Ecocide Foundation, 2021, p.5). Subsequently, part of the ACFN are dying from illnesses and cancers which are consequences of the oil industry's downstream pollution. This means Paragraphs a and b of Article 2 to the Genocide Convention have been committed as a result of oil operations. "Killing members of the group" (Genocide Convention, art. 2 para. a, 1948), and "Causing serious bodily or mental harm to members of the group" (Genocide Convention, art. 2 para. b, 1948).

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