

# *On Politics*

The University of Victoria's  
Undergraduates of Political Science Journal

**Volume 17 — Issue 1**  
**Spring 2024**

---

*On Politics is printed on the Coast Salish Territories. The On Politics Team acknowledges with respect the Lekwungen peoples on whose traditional territory the university stands and the Songhees, Esquimalt, and WSÁNEĆ peoples whose historical relationship with the land continues to this day*

---

## The Journal

---

*On Politics* is a peer-reviewed academic journal published by the University of Victoria Undergraduates of Political Science. It aims to encourage and facilitate undergraduate scholarship by providing students and recent graduates with a unique opportunity to have their work published in a formal medium. The editors of this journal are drawn from the undergraduate student body.

Submissions are welcomed from students during our call for papers each semester. *On Politics* strives to publish writing from a variety of theoretical perspectives, both intra- and interdisciplinary, with a particular focus in uplifting marginalized voices and to showcase emerging undergraduate scholars at the University of Victoria. Although published articles are typically found within the realm of political science, we welcome political work from all fields of study.

We especially encourage students from adjacent disciplines to submit, acknowledging the existence of a vast body of political work that crosses beyond the disciplinary boundaries of academia.

Copyright © 2024

Contributors grant *On Politics* the right of first publication but retain copyright of their work. Articles will also be published online through the University of Victoria Journal Publishing Service.

This issue's cover was created by Megan Ryan-Lloyd. This issue was formatted by Sage Blackwell. Contributors to *On Politics* agree to release their articles under the Creative Commons Attribution-Non-Commercial 4.0 International license. Those interested may share material within the journal in any medium or format and may adapt the journal's content. Sharing adaptation must attribute the work to *On Politics* and the authors of the affected articles. For more details contact [politicsjournal@gmail.com](mailto:politicsjournal@gmail.com).

*On Politics* does not reserve the right to exclusive distribution of published work. Contributors may enter into additional arrangements provided that first publication in *On Politics* is acknowledged.

## Table of Contents

---

**Page III** Editorial Team

**Page IV** Acknowledgments

**Page V** Letter from the Editor

**Page 1** Securitizing “Critical Infrastructure” in So-Called Canada: Petro-Colonialism, Land Defence, and Alberta’s Critical Infrastructure Defense **by Jenna Inch**

**Page 20** Prospects of Leaderless Disobedience: A Case Study of the 2020-2021 Punjabi Kisan Protests **by Saiyah Aujla**

**Page 31** Anti-Hate Legislation in Canada: Necessary Protection or Dubious Limitation? **by Hector Jardine**

**Page 44** Push + Pull: The Call for Justice and the Failing (and Rescinded) Accountability from the Japanese Government for the “Comfort Women” Issue System **by Ava Redmond**

**Page 59** Rebuilding the City of Political Depression **by Taylor Nishimura**

**Page 76** The Burden of the Migrant Crisis and Climate Change: Entrenching Transnational Economic Policy in the European Union **by Omar Said**

## Editorial Team

---

### EDITOR-IN-CHIEF

#### **Simone Rutherford**

Simone is in her fourth and final year at UVic, majoring in Political Science and minoring in Gender Studies. Her primary research interests revolve around the axes of identities such as gender, race, and sexuality, specifically how these identities intersect to produce inequalities within power relations in the international arena.

### EDITORS

#### **Ava Redmond**

Ava is an Honours Political Science student with a minor in Global Development Studies. She is interested in online and transnational activism, the intersection of pop culture and politics, and the formation and negotiation of sociopolitical identity, specifically in regard to diasporic Asian youth.

#### **Marco Cioffi**

Marco is in his third year at UVIC, majoring in Political Science. He is primarily interested in international relations research regarding the economic impacts of interstate conflict.

#### **Mayuki Richter**

Mayuki is a fourth-year Political Science student with a career interest in diplomacy and international relations. Her broader research interests include the workings of civil society in Japan, disability rights in British Columbia, modern hybrid warfare tactics, and security issues within the Indo-Pacific.

### PROOFREADERS

Brianna Sidhu

Emily Goodman

Kaitlyn Kirkpatrick

Megan Ryan-Lloyd

## Acknowledgements

---

*On Politics* would like to thank the University of Victoria Students' Society, the Department of Political Science, and the Undergraduates of Political Science course union for their continuous support and investment in undergraduate publishing and writing.

A special thanks to the faculty members of the University of Victoria who provided expert revision and advice to our authors:

Dr. Jamie Lawson  
Dr. Kelly Aguirre  
Dr. Matt James

As well as a special thanks to the members from the Canadian International Council (CIC) Victoria Branch who provided expert revision and advice to our authors:

Chris Kliford  
David Pike  
Gina Connor

Additional acknowledgments to:

UPS President Q Roxas, for their continuous help and support.  
UPS Director of Finance Jenna Inch, for always going above and beyond in securing funding for the journal.  
Political Science Chair Dr. Scott Watson, for his support in this process.  
CIC Victoria Liaison Paul Seguna, for his hard work in the student-CIC member liaison process.  
Political Science student Megan Ryan-Lloyd, for creating the cover design.  
The Martlet's Design Director Sage Blackwell, for design, formatting, and layout.

## Letter from the Editor

---

*Dear Reader,*

It is my pleasure to present the seventeenth volume of *On Politics*. This is not just a compilation of undergraduate voices but a testament to the significant role that students play in shaping how we think, work, and play in the world. This particular volume showcases six different undergraduate voices, each on a different endeavour within the ever-changing world of politics.

We begin with Jenna Inch's analysis of the securitization of pipeline infrastructure in Canada. Inch examines the Critical Infrastructure Defence Act, passed by Alberta's United Conservative government in 2020, and its consequences for Indigenous nations, the planet, and future exercises of peaceful civil disobedience in Alberta.

Then, we go to Saiyah Aujla's exploration of the 2020-2021 Punjabi Kisan protests as a case study in leaderless civil disobedience. Aujla critiques our understanding of the American Civil Rights Movement, using the case of Punjabi farmers to reveal the power of nonviolent coalition politics.

Following this, Hector Jardine explores the trajectory of free expression in Canada. Jardine examines anti-hate legislation in Canada and proposes alternative means for combating discriminatory expression without compromising important constitutional principles.

Next, we have Ava Redmond's analysis of the Japanese government's "Comfort Women" system in World War II. Redmond highlights the Japanese government's lack of accountability, exploring this system of harm not only as a historical and contemporary injustice but also as a transnational and ethnonational issue.

Then, Taylor Nishimura examines how Canadian cities are curated, like museums, to tell a colonial narrative. Using Victoria, BC, specifically, Nishimura highlights the Lekwungen people's stewardship of kwetlal (camas) as a form of Indigenous resurgence and argues for a re-storying of urban spaces that celebrates Indigenous presence and creativity while challenging colonial structures and narratives.

Finally, we have Omar Said's critical analysis of the European Union's economic policies, where Said emphasizes the incompatibility of free trade with meaningful climate action. Said argues that the EU's failure to reconcile its economic objectives with sustainable development has intensified environmental degradation in the Global South and worsened the migrant crisis.

I am sad to say that this is my final issue as Editor-in-Chief of *On Politics*. Working with and learning from all the people who have made this journal possible over the last couple of years has been an honour. This collection of exemplary undergraduate scholarship would not be possible without the hard work and dedicated efforts of our editors, proofreaders, reviewers, and, of course, talented authors.

I am so grateful to each and every person who was able to help bring this edition to life here on the Coast Salish Territories. On this note, please enjoy the seventeenth volume of *On Politics*, and from the River to the Salish Sea, may we all, one day, be free.

Simone Rutherford  
Editor-in-Chief  
Vol. 17  
On Politics  
University of Victoria

# Securitizing “Critical Infrastructure” in So-Called Canada:

## *Petro-Colonialism, Land Defence, and Alberta’s Critical Infrastructure Defence Act*

By Jenna Inch

### Abstract

In June 2020, Alberta’s United Conservative government under Jason Kenney passed the Critical Infrastructure Defence Act (CIDA). This provincial act codifies penalties for trespassing or obstructing various forms of “critical infrastructure,” including infrastructure attributed to Alberta’s fossil fuel economy. However, unbeknownst to many, CIDA was passed in direct response to Wet’suwet’en land defenders blockading pipeline infrastructure on their lands in the central interior of British Columbia and the cross-country solidarity blockades which followed. This paper analyzes the securitization of pipeline infrastructure throughout Canada’s contemporary history, showcasing how fossil fuel infrastructure has been discursively lodged as “critical” for Canada’s socio-economic well-being since Stephen Harper’s reign as Prime Minister. As a consequence, Indigenous land defenders have been narrativized as extremist threats by actors within Canadian settler-state governance, including actors within the Alberta provincial government during the passing of CIDA, in an effort to maintain fossil fuel hegemony and uphold the present petro-colonial order. In doing so, the settler-state has inhibited Indigenous communities from protecting their own “critical infrastructures” – the lands, waters, and non-human others – without legal penalty, threatening the survival of Indigenous nations and the planet at large whilst compromising future exercises of peaceful civil disobedience in Alberta.

### Acknowledgements

I would like to thank Dr. Jamie Lawson for encouraging me to publish this article, for providing me with constructive feedback, and for initially bringing this subject matter to my attention within the context of POLI 357 (Canadian Environmental Politics). Additionally, I would like to thank the



various nations who have stewarded the land since time immemorial within the Treaty 7 region of Alberta; the lands which I originally hail from, as my curiosity from being an uninvited settler on these lands was a major point of inspiration for this project. Lastly, I would like to thank the OnPol team – notably Ava Redmond, Mayuki Richter, Brianna Sidhu, and Kaitie Kirkpatrick – for your edits in making this project come to fruition, along with Simone Rutherford for all of your hard work in making OnPolitics possible.

*“[I]ndustry and government always talk about critical infrastructure, and their critical infrastructure is [about] making money and using destructive projects to make that money.... For us, our critical infrastructure is the clean drinking water, and the very water that the salmon spawn in... That salmon is our food source; it’s our main staple food. That’s one of our critical infrastructures.”*  
– Freda Huson, activist and spokesperson for the Unist’ot’en camp, interviewed by Anne Spice (2018, 40)

## Introduction

Over the last 20 years, various government departments, politicians, and private actors throughout the Canadian settler state have labelled Indigenous land defenders as extremists, radicals, and domestic terrorists, all in the name of “critical infrastructure protection.”<sup>1</sup> Whether it is a road, a railway, or a pipeline, proponents perceive any infrastructure deemed “critical” for the maintenance of Canada’s extractive economy to be “threatened” so long as any form of collective action, including land defence blockades,<sup>2</sup> impede a structure’s ability to produce economically. However, in framing “critical infrastructure” in this manner, the Canadian settler state has problematically considered any peaceful obstruction of fossil fuel infrastructure as an affront to Canada’s national security, for state actors have directly attributed the well-being of the Canadian economy to the well-being of fossil fuel extractivism. In so doing, the Canadian settler state has subjected Indigenous peoples to increased surveillance and policing

1 Jeffrey Monaghan and Kevin Walby, “Surveillance of Environmental Movements in Canada: Critical Infrastructure Protection and the Petro-Security Apparatus,” *Contemporary Justice Review* 20, no. 1 (2017): 51; Jenna Harb and Kathryn Henne, “Disinformation and Resistance in the Surveillance of Indigenous Protesters,” in *In Information, Technology and Control in a Changing World*, ed. Blayne Haggart, Kathryn Henne, and Natasha Tusikov (Cham: Springer International Publishing, 2019), 192; Jen Gobby and Lucy Everett, “Policing Indigenous Land Defense and Climate Activism: Learnings from the Frontlines of Pipeline Resistance in Canada,” in *Enforcing Ecocide*, ed. Alexander Dunlap and Andrea Brock (Cham: Springer International Publishing, 2022), 99-100. 2 Harb and Henne, “Disinformation and Resistance,” 192; Gobby and Everett, “Policing Indigenous Land Defense,” 99-100.

when attempting to protect their lands, waters, and ecosystems from the ecological harms attributed to various resource development endeavours, particularly pipeline development projects<sup>3</sup>. Though critical infrastructure policing regimes targeting Indigenous land defenders have remained relatively covert<sup>4</sup>, taking place in several provinces and involving a multitude of both private and public actors<sup>5</sup>, the Alberta government attempted to establish its own provincial policing regime by passing the Critical Infrastructure Defence Act (CIDA) in June 2020.

Within this paper, I argue that Alberta's Critical Infrastructure Defence Act, under the guise of 'critical infrastructure protection,' actively targets Indigenous land defenders and stymies Indigenous land defence initiatives to preserve the dominant oil and gas industry within Alberta. To do so, the Alberta government, through its elected representatives, has characterized Indigenous land defenders and their allies as extremists and domestic terrorists; a characterization which became popularized post-9/11, as supposed 'acts of terror' were expanded to include posing a 'threat' to pipeline infrastructure. By turning Indigenous land defence into an issue of economic security and public safety, the Alberta government, through CIDA, aims to undermine acts of land defence and land-based solidarity whilst subjecting Indigenous land defenders to further criminalization. As CIDA upholds colonial notions of what infrastructure is "critical" at the expense of Indigenous counter-discourses reframing "critical infrastructure" as their storied, sacred lands and their ability to maintain right relations with other creatures on said lands, CIDA is dually destructive to Indigenous communities and the environment at large. Thus, the Critical Infrastructure Defence Act appears as an act of petro-colonialism<sup>6</sup> – a form of settler-colonial intrusion intermingled with oil and gas extraction, in which ecological preservation and Indigenous survival are sacrificed in order to maintain fossil fuel hegemony.

This paper is divided into three parts. Part I discusses the discursive construction of settler-colonial "critical infrastructure" within Canada's recent history, along with the construction of Indigenous land defenders as extremist, radical threats in the post-9/11 era. Part II discusses the Critical Infrastructure Defence Act, reviewing CIDA's provisions and delving into the legislative

3 Monaghan and Walby, "Surveillance of Environmental Movements," 66; Gobby and Everett, "Policing Indigenous Land Defense," 99.

4 Monaghan and Walby, "Surveillance of Environmental Movements," 62; Gobby and Everett, "Policing Indigenous Land Defense," 96; Harb and Henne, "Disinformation and Resistance," 197-202.

5 Monaghan and Walby, "Surveillance of Environmental Movements," 59.

6 Samuel J. Spiegel, "Fossil Fuel Violence and Visual Practices on Indigenous Land: Watching, Witnessing and Resisting Settler-Colonial Injustices," *Energy Research and Social Science* 79, (2017): 1.

records surrounding CIDA to illuminate how these securitized, post-9/11 characterizations of Indigenous land defenders have bled into this consequential piece of legislation. Lastly, Part III provides a counter-discourse to that of settler-colonial “critical infrastructure” – Wet’suwet’en “critical infrastructures” – in an attempt to explain why peaceful land defence initiatives are a crucial avenue for Indigenous communities to assert their governance whilst protecting their relations with non-human others. By criminalizing this form of Indigenous “critical infrastructure” protection, though, the Alberta government is “enforcing ecocide,”<sup>7</sup> exacerbating climate change and targeting acts of peaceful civil disobedience in the name of economic preservation.

### Part I: “Critical Infrastructure” in So-Called Canada: A Modern History

According to Public Safety Canada, the Canadian government defines “critical infrastructure” as “processes, systems, facilities, technologies, networks, assets and services essential to the health, safety, security or economic well-being of Canadians and the effective functioning of government.”<sup>8</sup> According to the government, if someone or something were to disrupt critical infrastructure, this “could result in catastrophic loss of life, adverse economic effects and significant harm to public confidence”<sup>9</sup> (emphasis added). However, what counts as ‘critical infrastructure,’ what a ‘disruption’ to critical infrastructure looks like, and what the stereotypical ‘disruptor’ of critical infrastructure looks like in the eyes of the federal government has shifted over the last 40 years. As will be discussed, the most recent characterization of the critical infrastructure ‘disruptor’ has been peaceful protestors targeting resource development projects – a signal that, perhaps, those posing the gravest threat to Canada’s national security in the eyes of the Canadian government are those willing to challenge the extractivist economic order.

The discourse of “critical infrastructure protection” – a narrative which justifies state surveillance against those who ‘threaten’ economically lucrative infrastructure in the name of national security – initially emerged within Canada during the Cold War era<sup>10</sup>. Within this period, the Canadian security apparatus actively monitored critical infrastructure sites for signs of sabotage or industrial espionage, worried that Canadian industries could be compromised by “suspected communist functionar-

7 Gobby and Everett, “Policing Indigenous Land Defense,” 98.

8 “Canada’s Critical Infrastructure.” Public Safety Canada, accessed December 4, 2023, <https://www.publicsafety.gc.ca/cnt/ntnl-scrtr/crtcl-nfrstrctr/ci-iec-en.aspx> (emphasis added).

9 Public Safety Canada, “Canada’s Critical Infrastructure” (emphasis added).

10 Monaghan and Walby, “Surveillance of Environmental Movements,” 51.

ies.”<sup>11</sup> However, in the early 1990s, many Western states, including Canada, began to configure new ways of describing threats that were different from those conceived during the Cold War<sup>12</sup>. This process was inevitably sped up in 2001, for the events of 9/11 would fundamentally shift how countries worldwide – including Canada – would conceptualize threats to their national security<sup>13</sup>.

According to S. Harris Ali, “the discursive opportunity to define environmentalists as security threats and ‘enemies of the state’ arose, at least in part, because of the heightened concern about national security and nationalist concerns in the post-9/11 context.”<sup>14</sup> Discourses painting environmentalists and Indigenous land defenders as “terrorists” and “extremists” did exist prior to 2001, with these descriptors first gaining normalcy in the 1990s.<sup>15</sup> However, the reconfiguration of Canada’s security apparatus in the post-9/11 era allowed for these inflammatory characterizations to proliferate.<sup>16</sup> For instance, critical infrastructure protection became managed by the same bodies in charge of facilitating counter-terrorism operations within Canada.<sup>17</sup> Further, private actors, including energy corporations, became involved in surveillance and intelligence-gathering operations targeting peaceful protestors at critical infrastructure sites.<sup>18</sup> Thus, “framing rituals of ‘Aboriginal extremism’”<sup>19</sup> soon became well-utilized by Canadian law enforcement and security agencies. These framing rituals became more prevalent after Stephen Harper was elected Prime Minister in 2006.<sup>20</sup> After all, Harper desperately wanted Canada – an “emerging energy superpower” – to become a “global energy powerhouse” under his tenure.<sup>21</sup>

As Harper and his Conservative government aimed “to implement policies that would have natural resources and energy development serve

---

11 Monaghan and Walby, “Surveillance of Environmental Movements,” 51.

12 Monaghan and Walby, “Surveillance of Environmental Movements,” 51.

13 S. Harris Ali, “Neoliberal Governance of Environmentalism in the Post-9/11 Security Era: The Case of Pipeline Debates in Canada,” in *Handbook of Anti-Environmentalism*, ed. David Tindall, Mark C. J. Stoddart, and Riley E. Dunlap (Cheltenham: Edward Elgar Publishing Limited, 2022), 252; Monaghan and Walby, “Surveillance of Environmental Movements,” 55.

14 Harris Ali, “Neoliberal Governance of Environmentalism,” 260.

15 Monaghan and Walby, “Surveillance of Environmental Movements,” 55-6.

16 Harris Ali, “Neoliberal Governance of Environmentalism,” 252-3.

17 Monaghan and Walby, “Surveillance of Environmental Movements,” 62, 65.

18 Monaghan and Walby, “Surveillance of Environmental Movements,” 52; 59-65; Gobby and Everett, “Policing Indigenous Land Defense,” 107.

19 Monaghan and Walby, “Surveillance of Environmental Movements,” 66.

20 Harris Ali, “Neoliberal Governance of Environmentalism,”

21 Jane Taber, “PM brands Canada an ‘energy superpower,’” *Globe and Mail*, July 15, 2006, <https://www.theglobeandmail.com/news/world/pm-brands-canada-an-energy-superpower/article1105875/>.

as the chief driver of the national economy,”<sup>22</sup> Harper would undertake many initiatives throughout his time in office to stifle the involvement of environmentalists and climate scientists in policymaking and energy-related discourse.<sup>23</sup> However, the most consequential piece of legislation put forth by the Harper administration concerning critical infrastructure was the Anti-Terrorism Act (Bill C-51) in 2015. Bill C-51 characterized all oil and gas infrastructure – including pipeline infrastructure – as “critical infrastructure” in hopes of entrenching the idea that pipelines were “critical” for all Canadians’ security and economic well-being.<sup>24</sup> However, as all “threats to pipeline projects...[were] cast as threats to national (economic) security,” due to any “interference with critical infrastructure” being deemed an “activity that undermines the security of Canada” under Section 2(f) of Bill C-51’s Security of Canada Information Sharing Act<sup>25</sup>, any collective resistance taking place against pipeline infrastructure – no matter how peaceful – would fall under the same vein as “domestic terrorism.”<sup>26</sup> As a result, Bill C-51 opened up the door for severe punitive action to be taken against individuals who took part in non-violent and otherwise non-criminal forms of protest against the oil and gas industry,<sup>27</sup> for those ‘interfering’ with critical infrastructure could be prosecuted under various terrorism-related offences as per Part II.1 of the Criminal Code.<sup>28</sup> In turn, vocal opponents of the oil and gas industry – notably Indigenous land defenders – became the targets of increased surveillance and criminalization in relation to up-and-coming pipeline projects.<sup>29</sup> This targeting of Indigenous land defenders is unsurprising, for Indigenous peoples have historically faced differential treatment by law enforcement in many circumstances, including but not exclusive to surveillance and policing operations

---

22 Harris Ali, “Neoliberal Governance of Environmentalism,” 250.

23 Harris Ali, “Neoliberal Governance of Environmentalism,” 251; Nathan Young and Aline Coutinho, “Government, Anti-Reflexivity, and the Construction of Public Ignorance about Climate Change: Australia and Canada Compared.” *Global Environmental Politics* 13, no. 2 (2013): 95-102.

24 Gobby and Everett, “Policing Indigenous Land Defense,” 106.

25 Canada, Library of Parliament, Legislative Summary: Bill C-51: An Act to enact the Security of Canada Information Sharing Act and the Secure Air Travel Act, to amend the Criminal Code, the Canadian Security Intelligence Service Act and the Immigration and Refugee Protection Act and to make related and consequential amendments to other Acts (Ottawa, ON: Library of Parliament, 2015), <https://lop.parl.ca/staticfiles/PublicWebsite/Home/ResearchPublications/LegislativeSummaries/PDF/41-2/c51-e.pdf>, 7.

26 Anne Spice, “Fighting Invasive Infrastructures: Indigenous Relations Against Pipelines,” *Environment and Society* 9, no. 1 (2018): 43.

27 Monaghan and Walby, “Surveillance of Environmental Movements,” 57; Spice, “Fighting Invasive Infrastructures,” 43.

28 Canada, Library of Parliament, Legislative Summary: Bill C-51: An Act to enact the Security of Canada Information Sharing Act and the Secure Air Travel Act, to amend the Criminal Code, the Canadian Security Intelligence Service Act and the Immigration and Refugee Protection Act and to make related and consequential amendments to other Acts, 14.

29 Monaghan and Walby, “Surveillance of Environmental Movements,” 66; Gobby and Everett, “Policing Indigenous Land Defense,” 106; Anne Spice, “Fighting Invasive Infrastructures,” 43.

attributed to critical infrastructure protection.<sup>30</sup> For instance, the Critical Infrastructure Intelligence Team (CIIT) established by the RCMP during the Northern Gateway pipeline inquiry became responsible for gathering intelligence and sharing it with the National Energy Board (NEB) in preparation for Northern Gateway's proposal hearings starting in 2012.<sup>31</sup> However, in communication with the NEB's security chief, the intelligence team warned of "the possibility [for] activities associated with the 'All Native [B]asketball Tournament' being held in Prince Rupert" to potentially impede the hearings, insinuating that intelligence officials pigeonholed all Indigenous peoples – including unrelated basketball players – as potential threats towards pipeline infrastructure.<sup>32</sup> Thus, through Bill C-51, "[f]raming rituals of 'Aboriginal extremism'" amongst law enforcement became evermore common, for similar framing rituals were prolific even before interference with critical infrastructure was deemed akin to terrorism in the eyes of the law, as was the case during the Northern Gateway pipeline inquiry.<sup>33</sup>

In addition to criminalizing land defenders through Bill C-51, the Harper administration also used criminalizing language when referring to environmentalists and activists in public forums. For example, Joe Oliver, previous Minister of Natural Resources, stated in a 2012 open letter:

We know that increasing trade will help ensure the financial security of Canadians and their families. Unfortunately, there are environmental and other radical groups that would seek to block this opportunity to diversify our trade. Their goal is to stop any major project, no matter what the cost [is] to Canadian families in lost jobs and economic growth... These groups threaten to hijack our regulatory system to achieve their radical ideological agenda... [and] it is an urgent matter of Canada's national interest.<sup>34</sup>

By describing protestors as radicals who oppose the financial security of Canadian families, the Harper government and its prominent figureheads aimed to lodge a campaign of "discursive obstruction" – an "oppositional campaign waged by networks of elite state and private actors," in which the government constructed a "derogatory frame" to "sway public

30 Monaghan and Walby, "Surveillance of Environmental Movements," 65; Gobby and Everett, "Policing Indigenous Land Defense," 94, 97.

31 Monaghan and Walby, "Surveillance of Environmental Movements," 59-63.

32 Monaghan and Walby, "Surveillance of Environmental Movements," 62.

33 Monaghan and Walby, "Surveillance of Environmental Movements," 66.

34 Quoted in Harris Ali, "Neoliberal Governance of Environmentalism," 251.

opinion against movements that challenge elite interests.”<sup>35</sup> This obstructive framing of peaceful protestors, including Indigenous land defenders, has proliferated ever since, with the consequences of the Harper regime’s “war on terror” narratives leading to severe outcomes for Indigenous land defenders engaging in blockades or long-term protest camps against pipeline infrastructure.<sup>36</sup> To quote Jen Gobby and Lucy Everett, “[t]his blurring of the very real lines between land defence, civil disobedience, and terrorism leads to an implicit equivalence between people defending their lands and communities against unwanted extractive development[,] and violent terrorism aimed at injuring and killing people.”<sup>37</sup> These criminalizing narratives have, in turn, justified an increased police presence in response to Indigenous land defenders impeding the construction or expansion of pipeline projects, leading to claims that, in certain instances, the “police are [actively] being employed to ensure and enforce the interests of extractive economics.”<sup>38</sup>

In sum, the securitization of critical infrastructure post-9/11, when coupled with Harper’s extractivist motives, resulted in two key discursive constructions. First, through Bill C-51, “critical infrastructure,” a catch-all phrase originally meant to refer to infrastructure deemed essential for Canada’s economic prosperity and national security, suddenly included pipeline and oil and gas infrastructure. Consequently, fossil fuel extraction has been framed as being “critical” for Canada’s interests, most notably Canada’s economic interests, despite the contentious and ecologically destructive nature of various pipeline projects within Canadian contemporary history. Second, and as a result of critical infrastructure interference being deemed akin to domestic terrorism under Bill C-51, Indigenous land defenders have been repeatedly framed as threats to the Canadian state and the Canadian national interest for engaging in peaceful protest against fossil fuel extraction on their treated or unceded territories. Ever since, Indigenous land defenders have been dubbed “extremists,”<sup>39</sup> “domestic terrorists,”<sup>40</sup> “radicals,”<sup>41</sup> and even “anti-Canadian”<sup>42</sup> by various actors within the Canadian state. These two consequential discourses, deployed to bolster Canada’s fossil fuel economy despite dissenting opinions, can be seen in the

35 Harris Ali, “Neoliberal Governance of Environmentalism,” 249.

36 Gobby and Everett, “Policing Indigenous Land Defense,” 101, 97.

37 Gobby and Everett, “Policing Indigenous Land Defense,” 101.

38 Gobby and Everett, “Policing Indigenous Land Defense,” 98.

39 Monaghan and Walby, “Surveillance of Environmental Movements,” 66.

40 Gobby and Everett, “Policing Indigenous Land Defense,” 101; Harris Ali, “Neoliberal Governance of Environmentalism,” 255; Spice, “Fighting Invasive Infrastructures,” 43.

41 Harris Ali, “Neoliberal Governance of Environmentalism,” 251-2.

42 Ibid, 252.

language surrounding the formation of the Alberta Critical Infrastructure Defence Act. This act will now be explored in-depth.

## Part II: Alberta's Critical Infrastructure Defence Act: Petro-Colonial Policymaking in Action

The Critical Infrastructure Defence Act (CIDA), otherwise known as Bill 1, was proposed and passed by Jason Kenney's United Conservative government in Alberta in 2020. The Alberta government's overt goal when passing CIDA was to "protec[t] essential infrastructure by creating offences for trespassing, interfering with operations or causing damage."<sup>43</sup> However, when defining "essential infrastructure" – an analogous term for critical infrastructure – section 1 makes a concerted effort to list several types of infrastructure owned and operated by the oil and gas industry, including pipelines, refineries, and other kinds of fossil fuel production facilities.<sup>44</sup> Additionally, CIDA explicitly mentions other forms of infrastructure that a peaceful demonstration or a solidarity blockade might block, such as highways, railways, and urban rail transit systems, as other kinds of 'essential infrastructure.' Thus, CIDA takes a page from Bill C-51, aiming to protect a particular kind of 'essential infrastructure'<sup>45</sup> – oil and gas infrastructure – along with any other forms of 'infrastructure' that could become breeding grounds for anti-industry protests.<sup>46</sup>

When detailing the prohibitions surrounding access to essential infrastructure, section 3 of CIDA states that no individual "without lawful right, justification or excuse" can willfully enter, damage, destroy, or obstruct any essential infrastructure located within the province, including when it is undergoing construction or maintenance.<sup>47</sup> Most notably, the Alberta government aims to "protec[t] essential infrastructure from damage or interference caused by blockades, protests or similar activities" – all of which, in the eyes of the Alberta government, "can cause significant public safety, social, economic and environmental consequences."<sup>48</sup> Consequently, if land defenders were to gather peacefully near a pipeline, or if a

43 "Protecting critical infrastructure," Government of Alberta, accessed December 4, 2023, <https://www.alberta.ca/protecting-critical-infrastructure>.

44 Critical Infrastructure Defence Act, Statutes of Alberta 2020, C-32.7, 1-2. [https://kings-printer.alberta.ca/1266.cfm?page=c32p7.cfm&leg\\_type=Acts&isbncln=9780779817672](https://kings-printer.alberta.ca/1266.cfm?page=c32p7.cfm&leg_type=Acts&isbncln=9780779817672).

45 Critical Infrastructure Defence Act, 1-2.

46 James Lawson, "Mounting Turbulence in Neoliberal Globalization: Political Economy, Populist Discourse, and Policy in Alberta, Canada," *Social Sciences* 11, no. 5 (2022): 16.

47 Critical Infrastructure Defence Act, 3.

48 "Protecting critical infrastructure," Government of Alberta, accessed December 4, 2023, <https://www.alberta.ca/protecting-critical-infrastructure> (emphasis added).



collective decided to form a solidarity blockade on a railway or a high-traffic roadway, those who participated could be charged up to \$10,000 for their first offence, up to \$25,000 for concurrent offences, and could even face imprisonment for up to six months. Though these charges are already relatively steep, they seem even more severe when considering s. 3(3) of CIDA, as each new day of protest would be considered a separate offence.<sup>49</sup> Thus, offences and their corresponding charges can accumulate based on both elapsed time and the severity of the offence, as per the opinion of law enforcement.

When considering the penalties expressed within CIDA alone, it is easy to see how the Critical Infrastructure Defensive Act deters the exercise of land defence and solidarity blockades within Alberta unless individuals are prepared to face hefty fines or potential imprisonment. However, CIDA does not just stymie Indigenous land defence in Alberta in principle;<sup>50</sup> for CIDA arose as a direct reaction to the Wet'suwet'en land defence blockades established in response to the construction of the Coastal GasLink pipeline in the central interior of British Columbia and the cross-country solidarity blockades that followed.<sup>51</sup> As a result, in subsequent legislative discussions about CIDA before the Act was officially passed, various members of the legislative assembly (MLAs) used much of the same securitized language regarding Indigenous land defenders as has been deployed by Canada's "petro-security apparatus" since 9/11.<sup>52</sup> Thus, by utilizing the discursive framework initially deployed by the Harper administration, discussions within the Alberta Legislative Assembly further confirmed that the passing of CIDA ultimately attempted to maintain fossil fuel hegemony whilst curbing dissent from some Indigenous communities.

For instance, when first tabling CIDA to the Alberta Legislative Assembly in February 2020, former Premier Kenney stated, "We have seen lawlessness jeopardize the Canadian economy, leading to the loss of tens of thousands of jobs here in Alberta and across the Dominion."<sup>53</sup> By juxtaposing the interests of the Canadian economy and, by extension, the

49 Critical Infrastructure Defence Act, 4.

50 Alexandra Heine and Kelly Twa, "Bill 1: Criminalizing Protests and Encroaching on Aboriginal Rights," *AB-lawg*, June 17, 2020, [http://ablawg.ca/wp-content/uploads/2020/06/Blog\\_AH\\_KT\\_Bill1.pdf](http://ablawg.ca/wp-content/uploads/2020/06/Blog_AH_KT_Bill1.pdf).

51 Province of Alberta. Alberta Legislative Assembly Debates, 26 February 2020 (Mr. Ifran Sabir, NDP), 13. [https://docs.assembly.ab.ca/LADDAR\\_files/docs/hansards/han/legislature\\_30/session\\_2/20200226\\_0900\\_01\\_han.pdf#page=15](https://docs.assembly.ab.ca/LADDAR_files/docs/hansards/han/legislature_30/session_2/20200226_0900_01_han.pdf#page=15); Duane Bratt, "Alberta's Climate Policy: Public Kenney versus Private Kenney." In *Blue Storm: The Rise and Fall of Jason Kenney*, ed. Duane Bratt (Calgary: University of Calgary Press, 2023), 200.

52 Monaghan and Walby, "Surveillance of Environmental Movements," 63.

53 Province of Alberta. Alberta Legislative Assembly Debates, 25 February 2020 (Hon. Jason Kenney, UCP), 4. [https://docs.assembly.ab.ca/LADDAR\\_files/docs/hansards/han/legislature\\_30/session\\_2/20200225\\_1500\\_01\\_han.pdf#page=8](https://docs.assembly.ab.ca/LADDAR_files/docs/hansards/han/legislature_30/session_2/20200225_1500_01_han.pdf#page=8) (emphasis added).

Canadian people with the interests of ‘lawless’ Indigenous land defenders, Kenney aimed to assert that if ‘lawless’ land defenders attempted to disrupt the hegemonic role of oil and gas, there could be economic consequences for Albertans and the country at large. Therefore, according to Kenney, the provincial government should protect oil and gas infrastructure, even if that protection persists despite vocal opposition within certain Indigenous communities. This discursive obstruction being adopted by Kenney is unsurprising, given Kenney’s campaign slogan of “jobs, economy, and pipelines,”<sup>54</sup> along with his intimate love affair with the oil and gas industry throughout his premiership.<sup>55</sup> Despite this, Kenney’s rhetoric set the stage for future CIDA hearings, a precedent that would result in even more inflammatory language being used to describe Indigenous land defenders within the Alberta Legislative Assembly.

During CIDA’s second hearing, then-MLA for Brooks-Medicine Hat, Michaela Glasgo, would refer to Wet’suwet’en land defenders and their allies as “green zealots and eco radical thugs,” stating that they have “fundamentally disregarded the rule of law, jeopardized public safety, and continue to throw the national economy into chaos.”<sup>56</sup> The Minister of Infrastructure, Prasad Panda, echoed those sentiments later on when referencing a solidarity blockade on a CN rail line in Edmonton, proclaiming that “[o]ur railways have been illegally blockaded by thugs who have appropriated the noble goal of reconciliation with Canada’s native peoples and used that as an excuse to hold the country hostage.”<sup>57</sup> Minister Panda later stated that it was precisely because of these “illegal protestors,” “thugs,” and “green zealots” that “[w]e have an obligation as a government to act,”<sup>58</sup> a discursive ploy to justify the criminalization of Indigenous peoples in efforts to maintain Alberta’s fossil fuel economy.

In the third and final hearing on CIDA before the bill’s passing, two different MLAs went as far as to call Indigenous land defenders “eco-terrorists.”<sup>59</sup> To make the implicit explicit, then-Minister of Children’s Ser-

54 Chaseten Remillard and Tyler Nagel, “Kenney’s Ride: Albertan Neo-Liberal Myths and the Symbology of a Blue Dodge Ram,” in *Blue Storm: The Rise and Fall of Jason Kenney*, ed. Duane Bratt (Calgary: University of Calgary Press, 2023), 170.

55 Bratt, “Alberta’s Climate Policy,” 196, 198-200.

56 Province of Alberta. Alberta Legislative Assembly Debates, 26 February 2020 (Ms. Michaela Glasgo, UCP), 12. [https://docs.assembly.ab.ca/LADDAR\\_files/docs/hansards/han/legislature\\_30/session\\_2/20200226\\_0900\\_01\\_han.pdf#page=15](https://docs.assembly.ab.ca/LADDAR_files/docs/hansards/han/legislature_30/session_2/20200226_0900_01_han.pdf#page=15)

57 Province of Alberta. Alberta Legislative Assembly Debates, 26 February 2020 (Hon. Prasad Panda, UCP), 15. [https://docs.assembly.ab.ca/LADDAR\\_files/docs/hansards/han/legislature\\_30/session\\_2/20200226\\_0900\\_01\\_han.pdf#page=15](https://docs.assembly.ab.ca/LADDAR_files/docs/hansards/han/legislature_30/session_2/20200226_0900_01_han.pdf#page=15)

58 Province of Alberta. Alberta Legislative Assembly Debates, 26 February 2020 (Hon. Prasad Panda, UCP), 17. [https://docs.assembly.ab.ca/LADDAR\\_files/docs/hansards/han/legislature\\_30/session\\_2/20200226\\_0900\\_01\\_han.pdf#page=15](https://docs.assembly.ab.ca/LADDAR_files/docs/hansards/han/legislature_30/session_2/20200226_0900_01_han.pdf#page=15)

59 Province of Alberta. Alberta Legislative Assembly Debates, 28 May 2020 (Mr. Lori Sigurdson, NDP; Hon.

vices Rebecca Schulz proclaimed that “some governments may be okay with allowing illegal protesters to co-opt the First Nations agenda, driving investment from our province, filming TikTok videos on vital infrastructure while violating court orders, but our response is: not in Alberta.”<sup>60</sup> Schulz’s commentary, in tandem with other remarks provided by Kenney, Glasgo, and Panda, illuminates that the Critical Infrastructure Defence Act ultimately aimed to insulate Alberta’s hegemonic oil and gas sector from dissenters, most notably Indigenous land defenders. To do so, the Alberta government borrowed from the playbook of the Harper administration post-9/11, deeming fossil fuel infrastructure as “essential” through law whilst painting Indigenous land defenders as unruly, unreasonable threats who actively compromise the public safety and economic well-being of Albertans. However, it is crucial to understand that “critical infrastructure protection” is important not just for federal or provincial actors but also for Indigenous peoples. So important, in fact, that land defenders, including the Wet’suwet’en land defenders which triggered the creation of CIDA, have appropriated the terms being used by settler-state actors in order to challenge both the legitimacy and the petro-colonial prerogative of the settler-state in exercising “critical infrastructure protection” on Indigenous lands.

### **Part III: Indigenous “Critical Infrastructure Protection” – The Case of the Wet’suwet’en Nation**

Many Indigenous peoples throughout Canada who maintain strong relations with the land have unique perspectives regarding what underpins their economies in critical ways, perspectives which commonly differ from that of the settler-colonial state. Thus, as a counter-discourse to how ‘critical infrastructure protection’ (CIP) is framed by various Canadian governmental actors – frames that are imbued with extractivist rhetoric and have repeatedly targeted and criminalized Indigenous peoples – Indigenous land defenders have, at times, reframed the highly securitized language attributed to CIP in a manner concordant with their community values and knowledge systems.<sup>61</sup> As explained by Anne Spice, a Tlingit scholar and member of the Kwanlin Dun First Nation, “[b]y performative-ly ‘seeing like an oil company,’” land defenders appropriate the language

Rebecca Schulz, UCP), 865-7. [https://docs.assembly.ab.ca/LADDAR\\_files/docs/hansards/han/legislature\\_30/session\\_2/20200528\\_0900\\_01\\_han.pdf](https://docs.assembly.ab.ca/LADDAR_files/docs/hansards/han/legislature_30/session_2/20200528_0900_01_han.pdf).

60 Province of Alberta. Alberta Legislative Assembly Debates, 28 May 2020 (Hon. Rebecca Schulz, UCP), 867. [https://docs.assembly.ab.ca/LADDAR\\_files/docs/hansards/han/legislature\\_30/session\\_2/20200528\\_0900\\_01\\_han.pdf](https://docs.assembly.ab.ca/LADDAR_files/docs/hansards/han/legislature_30/session_2/20200528_0900_01_han.pdf) (emphasis added).

61 Spice, “Fighting Invasive Infrastructures,” 41, 47.

of infrastructure to question the terms of industrial invasion onto their territories.”<sup>62</sup> In turn, land defenders can challenge the legitimacy of the extractivist, settler-colonial rationale underlying CIP whilst “challeng[ing] the destructive teleology of settler petro-futures” more generally by appropriating and reframing concepts attributed to CIP.<sup>63</sup> One case of this astute appropriation comes from Freda Huson, Chief Howilhkát of the Wet’suwet’en First Nation, for Huson cleverly reframed the concept of “critical infrastructure” in a manner which re-oriented CIP around the protection of resources deemed ‘critical’ to the community rather than the protection of resources deemed critical for extractivist economic interests. In doing so, Huson highlighted the stark contrast between Wet’suwet’en conceptions of the land as sacred and relational and settler-state valuations of the land as resource-rich and appropriable, an ontological difference that ultimately prompted land defence initiatives on Wet’suwet’en territory, such as the creation of the Unist’ot’en Camp in 2010, amidst “infrastructures of invasion” threatening the lands, waters, and creatures to whom the Wet’suwet’en nation lives in good relation.<sup>64</sup>

In reconceptualizing “critical infrastructure” outside of the settler-colonial guise of CIP, Huson defines Wet’suwet’en “critical infrastructure” as “the interconnected networks of human and other-than-human beings that sustain Indigenous life in mutual relation.”<sup>65</sup> Though many Western conceptions of ‘infrastructure’ view ‘infrastructure’ as an inanimate object to be exploited or utilized for tangible benefit or economic gain, Huson’s reframing evidently showcases how the ‘infrastructure’ being defended by the Unist’ot’en Camp is both alive and relational, with these relations needing to be tended in perpetuity by Wet’suwet’en peoples, among others, in order for them to be maintained.<sup>66</sup> In explaining the relationality underlying this reconceptualization of ‘critical infrastructure,’ Huson states:

[F]or us, our critical infrastructure is the clean drinking water, and the very water that the salmon spawn in[.] ... The salmon is our food source; it’s our main staple food. That’s one of our critical infrastructures. And there’s berries that are our critical infrastructure, because the berries not only feed us, they also feed the bears, and the salmon also don’t just feed us, they feed the bears. And each and every one of

62 Spice, “Fighting Invasive Infrastructures,” 52; see also: Ferguson, James. “Seeing Like an Oil Company: Space, Security, and Global Capital in Neoliberal Africa.” *American Anthropologist* 107, no. 3 (2005): 377–382.

63 Spice, “Fighting Invasive Infrastructures,” 52.

64 Spice, “Fighting Invasive Infrastructures,” 45, 52.

65 Quoted in Spice, “Fighting Invasive Infrastructures,” 41.

66 Spice, “Fighting Invasive Infrastructures,” 42.

those are all connected, and without each other, we wouldn't survive on this planet.<sup>67</sup>

Thus, Wet'suwet'en 'critical infrastructure,' based on the description provided by Huson, simultaneously "sustai[ns] the collective life" of the Wet'suwet'en peoples whilst preserving the local ecologies found on Wet'suwet'en lands;<sup>68</sup> a stark ontological difference from that of the "Canadian state, [for] oil and gas pipelines count as infrastructural, [whereas] the relations of rivers, glaciers, lakes, mountains, plants and animals[,] and Indigenous nations are [seen] as natural resources to be modernized as commodities or subjects" of the settler-state.<sup>69</sup>

Given that these Wet'suwet'en critical infrastructures "are pointing to... the human and non-human networks that have supported Indigenous polities on this continent for tens of thousands of years,"<sup>70</sup> if said critical infrastructures<sup>71</sup> are threatened by a form of settler-colonial "critical infrastructure,"<sup>72</sup> such as a pipeline project, this threat can be seen as an affront to the lives of the Wet'suwet'en people, along with the lives of the non-human others to whom they live in good relation. Hence, when Wet'suwet'en peoples establish blockades against pipeline infrastructure, it is largely to protect the critical ecological system that Wet'suwet'en peoples have depended on since time immemorial. After all, to quote Freda Huson, "that whole cycle and system is our critical infrastructure," and if both "industry and government are [continuing to] pus[h]... projects that would destroy that critical infrastructure," an assertion of Indigenous jurisdiction in the form of a blockade allows for community members to continue "attending to and caring for the networks of relations that make Indigenous survival possible."<sup>73</sup>

Before concluding, it is essential to note that when Huson refers to "our critical infrastructure," she does not just mean the humans and non-human others existing on Wet'suwet'en lands. Rather, she is stating that Wet'suwet'en's "critical infrastructures" are just one example of the types of interconnected ecosystems which we, as humankind, should strive to protect to sustain life for future generations and non-human others for

67 Spice, "Fighting Invasive Infrastructures," 40.

68 Spice, "Fighting Invasive Infrastructures," 52.

69 Spice, "Fighting Invasive Infrastructures," 48.

70 Spice, "Fighting Invasive Infrastructures," 52.

71 Spice, "Fighting Invasive Infrastructures," 41 (emphasis in original).

72 Spice, "Fighting Invasive Infrastructures," 41.

73 Spice, "Fighting Invasive Infrastructures," 52.

many years to come.<sup>74</sup> Thus, the protection of Wet'suwet'en 'critical infrastructure' is inherently tied to the greater mission of environmental preservation,<sup>75</sup> a mission which becomes inhibited rather than bolstered when policies such as the Critical Infrastructure Defence Act ultimately choose short-term economic gain over the long-term aspiration of creating a liveable planet.

## Conclusion

As evidenced by the analysis of Hansard transcripts during the deliberation of Alberta's Critical Infrastructure Defence Act in 2020 in tandem with the provisions within the bill itself, it is evident that CIDA was passed in hopes of maintaining fossil fuel's hegemonic status within the Albertan economy. With this goal in mind, various elected representatives within the Alberta provincial government employed a discursive framing similar to that of the Harper government in the post-9/11 era, deeming oil and gas infrastructure "essential" for the body politic and simultaneously characterizing Indigenous land defenders as radical extremists. By attempting to delegitimize the motives of land defenders by discursively framing them as a threat to public safety and the local economy and by effectively entrenching said frames into provincial law, the Alberta government, under the premiership of Jason Kenney, believed that they could quell fossil fuel-derived protests for years to come. However, as demonstrated by Freda Huson, acts of land defence – including those of the Wet'suwet'en land defenders, which initially inspired Jason Kenney, among others, to craft and pass CIDA – are ultimately peaceful exercises of resistance, asserting Indigenous sovereignty and protecting relied-upon ecological networks in the face of settler-state actors attempting to transgress or supersede those objectives in hopes of furthering the petro-colonial order.

Therefore, given the Alberta government's discursive conflation of peaceful acts of civil disobedience – most notably that of Indigenous land defence – with acts of violent terrorism under CIDA, the implications attributed to the passing of CIDA may prove pernicious in the years to come. After all, by only allowing for peaceful protests to occur so long as they do not impact or stain the present extractivist order, CIDA could effectively ban a multitude of otherwise lawful protests throughout Alberta, including strikes, occupations, and other forms of direct action. Not only is this outcome unconstitutional as per the Canadian Charter of Rights

<sup>74</sup> Gobby and Everett, "Policing Indigenous Land Defense," 98.

<sup>75</sup> Gobby and Everett, "Policing Indigenous Land Defense," 98; Spice, "Fighting Invasive Infrastructures," 50.

and Freedoms – but it could operate in tandem with the overt targeting of Indigenous land defenders in particular, and Indigenous peoples more generally, for supposed criminal wrongdoing in relation to engaging in peaceful protest. Though the future will be the ultimate storyteller when it comes to CIDA, Indigenous land defenders in Alberta, in tandem with other peaceful protesters, will likely find it necessary one day to challenge the virulent, extractivist economic order. Thus, CIDA might be more of a petro-colonial stopgap than a panacea, for dissenters may believe that, in the words of Martin Luther King Jr., there exists a “moral responsibility to disobey unjust laws.”

## References

- Alberta. Legislative Assembly. “Critical Infrastructure Defence Act.” Bill 1, 30th Legislature, 2nd Session, 2020, 1-5. [Edmonton, AB]: King’s Printer, Province of Alberta, 2020.
- Alberta, Legislative Assembly, *Hansard*, 30th Leg, 2nd Sess, No. 1 (25 February 2020). [https://docs.assembly.ab.ca/LADDAR\\_files/docs/hansards/han/legislature\\_30/session\\_2/20200225\\_1500\\_01\\_han.pdf#page=8](https://docs.assembly.ab.ca/LADDAR_files/docs/hansards/han/legislature_30/session_2/20200225_1500_01_han.pdf#page=8).
- Alberta, Legislative Assembly, *Hansard*, 30th Leg, 2nd Sess, No. 4 (26 February 2020). [https://docs.assembly.ab.ca/LADDAR\\_files/docs/hansards/han/legislature\\_30/session\\_2/20200226\\_0900\\_01\\_han.pdf#page=15](https://docs.assembly.ab.ca/LADDAR_files/docs/hansards/han/legislature_30/session_2/20200226_0900_01_han.pdf#page=15).
- Alberta, Legislative Assembly, *Hansard*, 30th Leg, 2nd Sess, No. 22 (28 May 2020). [https://docs.assembly.ab.ca/LADDAR\\_files/docs/hansards/han/legislature\\_30/session\\_2/20200528\\_0900\\_01\\_han.pdf](https://docs.assembly.ab.ca/LADDAR_files/docs/hansards/han/legislature_30/session_2/20200528_0900_01_han.pdf).
- Bratt, Duane. 2023. “Alberta’s Climate Policy: Public Kenney versus Private Kenney.” In *Blue Storm: The Rise and Fall of Jason Kenney*, edited by Duane Bratt, Richard Sutherland, and David Taras, 189-207. Calgary, AB: University of Calgary Press.
- Canada. Library of Parliament. Legislative Summary: Bill C-51: *An Act to enact the Security of Canada Information Sharing Act and the Secure Air Travel Act, to amend the Criminal Code, the Canadian Security Intelligence Service Act and the Immigration and Refugee Protection Act and to make related and consequential amendments to other Acts*. Ottawa, ON: Library of Parliament. 2015. <https://lop.parl.ca/staticfiles/PublicWebsite/Home/ResearchPublications/LegislativeSummaries/PDF/41-2/c51-e.pdf>.
- Ferguson, James. 2005. “Seeing Like an Oil Company: Space, Security, and Global Capital in Neoliberal Africa.” *American Anthropologist* 107, no. 3: 377–382. <https://www.jstor.org/stable/3567023>.



- Gobby, Jen and Lucy Everett. 2022. "Policing Indigenous Land Defense and Climate Activism: Learnings from the Frontlines of Pipeline Resistance in Canada." In *Enforcing Ecocide*, edited by Alexander Dunlap and Andrea Brock, 89–121. Cham, Switzerland: Springer International Publishing.
- Government of Alberta. 2023. "Protecting critical infrastructure." Accessed December 4, 2023. <https://www.alberta.ca/protecting-critical-infrastructure>.
- Harb, Jenna, and Kathryn Henne. 2019. "Disinformation and Resistance in the Surveillance of Indigenous Protesters." In *Information, Technology and Control in a Changing World*, edited by Blayne Haggart, Kathryn Henne, and Natasha Tusikov, 187–211. Cham, Switzerland: Springer International Publishing.
- Harris Ali, S. 2022. "Neoliberal Governance of Environmentalism in the Post-9/11 Security Era: The Case of Pipeline Debates in Canada." In *Handbook of Anti-Environmentalism*, edited by David Tindall, Mark C. J. Stoddart, and Riley E. Dunlap. Cheltenham, United Kingdom: Edward Elgar Publishing Limited.
- Heine, Alexandra, and Kelly Twa, 2020. "Bill 1: Criminalizing Protests and Encroaching on Aboriginal Rights." *ABlawg*, June 17, 2020. [http://ablawg.ca/wp-content/uploads/2020/06/Blog\\_AH\\_KT\\_Bill1.pdf](http://ablawg.ca/wp-content/uploads/2020/06/Blog_AH_KT_Bill1.pdf).
- Lawson, James. 2022. "Mounting Turbulence in Neoliberal Globalization: Political Economy, Populist Discourse, and Policy in Alberta, Canada." *Social Sciences* 11, no. 5: 1-30. <https://doi.org/10.3390/socsci11050221>.
- Monaghan, Jeffrey, and Kevin Walby. 2017. "Surveillance of Environmental Movements in Canada: Critical Infrastructure Protection and the Petro-Security Apparatus." *Contemporary Justice Review* 20, no. 1: 51–70. <https://doi.org/10.1080/10282580.2016.1262770>.
- Public Safety Canada. 2022. "Canada's Critical Infrastructure." Accessed December 4, 2023. <https://www.publicsafety.gc.ca/cnt/ntnl-scrt/crt-cl-nfrstrctr/cci-iec-en.aspx>.

- Remillard, Chaseten, and Tyler Nagel. 2023. "Kenney's Ride: Albertan Neo-Liberal Myths and the Symbology of a Blue Dodge Ram." In *Blue Storm: The Rise and Fall of Jason Kenney*, edited by Duane Bratt, Richard Sutherland, and David Taras, 169-186. Calgary, AB: University of Calgary Press.
- Spice, Anne. 2018. "Fighting Invasive Infrastructures: Indigenous Relations Against Pipelines." *Environment and Society* 9, no. 1: 40–56. <https://doi.org/10.3167/ares.2018.090104>.
- Spiegel, Samuel J. 2021. "Fossil fuel violence and visual practices on Indigenous land: Watching, witnessing and resisting settler-colonial injustices." *Energy Research & Social Science* 79: 1-18. <https://doi.org/10.1016/j.erss.2021.102189>.
- Taber, Jane. 2006. "PM brands Canada an 'energy superpower.'" *The Globe and Mail*, July 15, 2006. <https://www.theglobeandmail.com/news/world/pm-brands-canada-an-energy-superpower/article1105875/>.
- Young, Nathan, and Aline Coutinho. 2013. "Government, Anti-Reflexivity, and the Construction of Public Ignorance about Climate Change: Australia and Canada Compared." *Global Environmental Politics* 13, no. 2: 89–108. [https://doi.org/10.1162/GLEP\\_a\\_00168](https://doi.org/10.1162/GLEP_a_00168).

# Prospects of Leaderless Disobedience: *A Case Study of the 2020-2021 Punjabi Kisan Protests*

By Saiyah Aujla

## Abstract

This paper explores the 2020-2021 Punjabi Kisan or farmers protests as a case study in leaderless civil disobedience and interrogates how the movement overcame the skepticism about the ability of a leaderless movement to survive and succeed as posed by sociologist Zeyneb Tufecki. By pulling back the curtain on the histories of the Civil Rights Movement, the paper shows how charismatic leaders of protest movements are not the persuasive factor and posits an analysis of the Punjabi farmer's non-violent tactics that supports this conclusion. This paper concludes that this case study suggests successful leaderless disobedience relies on a politics of coalition.

## Acknowledgements

My deepest gratitude to Dr. Rita Dhamoon, who pushed and inspired me to explore my Sikh identity in a critical academic way. Her kindness and mentorship will always be remembered. Immense thanks to Dr. Avigail Eisenberg for teaching an amazing course on civil disobedience and allowing me to think about the link between race and social change. Thank you to my peer editors and Chris Kilford at the CIC for taking the time to read my work thoroughly and sculpt it into what it is today. I also want to shout out my family and friends, who have supported and loved me unconditionally throughout my time at UVic, motivating me to do my best work. I hope that this work invites students to be imaginative and creative when thinking about social change.

How can one possibly affect change through non-violent protest today without a modern-day Gandhi or Martin Luther King Jr. (MLK) as a leader? Asking this question, however reifies the limited liberal narratives of non-violent protest that exaggerate the role of individual leaders.<sup>1</sup> By glossing over the importance of organizational infrastructure<sup>2</sup> or concealing the processes of global political cross-fertilization that inspired many prominent leaders<sup>3</sup> individual people become worshipped as heroes. This limits our conception of how ordinary people working together can create change. This essay argues that modern non-violent protest movements can be successful without an identifiable individual leader by focusing on a ‘politics of coalition’ where multiple factions, organizations or groups collectively advance a political goal. The case study of the 2020-2021 Punjabi kisan (farmers) protest march, 13-month-long occupation and diasporic disobedience is a vehicle through which one can understand how an unlikely group of peasant farmers in India attracted worldwide attention and succeeded in their goals without a definitive leader.

To this end, the essay will first unpack Erin Pineda’s analysis of how the narrative of extraordinary individual leaders misrepresents history, particularly in the case of MLK and the Civil Rights Movement in the United States. The enlarged history of the Civil Rights Movement shows how even the conventional example of a successful protest movement did not solely rely on the existence of a charismatic individual for its success. Second, the essay will engage with Barbara Deming’s work to demonstrate how the success of the Punjabi kisan protests can revitalize our faith in the power of non-violent strategies to create positive societal outcomes. Lastly, the essay will respond to Zeynep Tufekci’s skepticism about the ability of a leaderless movement to survive and succeed. In the case of the Punjabi kisan protests, the essay concludes that the support of an international ethnoreligious diaspora was essential for taking this movement beyond Tufekci’s observations.

## Background on the Punjabi Kisan Protests

The 2020-2021 Punjabi kisan protests were a bloc of modern non-vio-

1 Erin R. Pineda, “Introduction: Civil Disobedience and the Civil Rights Movement,” in *Seeing Like an Activist*, by Erin R. Pineda, 1st ed. (Oxford University Press New York, 2021), 1-C0.P35, <https://doi.org/10.1093/oso/9780197526422.003.0001>.

2 Zeynep Tufekci, “Leading the Leaderless,” in *Twitter and Tear Gas: The Power and Fragility of Networked Protest* (New Haven: Yale University Press, 2017).

3 Erin R. Pineda, “An Entire World in Motion,” in *Seeing Like an Activist*, by Erin R. Pineda, 1st ed. (Oxford University Press New York, 2021), 53–90, <https://doi.org/10.1093/oso/9780197526422.003.0003>.

lent agitations by peasants in India “fighting for the restoration and protection of their land.”<sup>4</sup> The disobedience was a response to three farm acts or bills imposed by the Indian central government and Hindu-nationalist Prime Minister (PM) Narendra Modi designed to decrease government protection of the agriculture industry and open markets to international corporate firms. These acts also limited the negotiating power of small individual farmers, who were often working on less than two acres of land, making them vulnerable to exploitation by foreign corporations and potentially paving the way for their eviction.<sup>5</sup> While the three farm acts threatened the livelihoods of many Indian farmers, the Indian agrarian crisis had been in motion for decades. Over 300,000 Indian farmers took their lives because of farm-related distress between 2000 and 2016—16,600 of whom were from Punjab alone.<sup>6</sup>

The first farmer’s march, including over 25,000 tractors was held on July 27, 2020, and less than a month later, all 31 farmers unions in the state of Punjab “joined hands to work in co-ordination... giving [the protest] a critical thrust” by building the All India Kisan Sangharsh (struggle) Co-ordination Committee.<sup>7</sup> In November 2020, the movement launched the call to Dilli Chalo (march to Delhi) under the banner of Samyukt Kisan Morcha (United Farmers Front, SKM) in the hopes of eliciting a response to their demands from the central Indian government.<sup>8</sup> The convoy of hundreds of thousands of tractors and trolleys from farmers across Punjab and Haryana faced serious state repression in the form of “tear-gas shells, water cannons, digging of trenches, concrete barricades, police baton charges and preventative arrests.”<sup>9</sup> At the New Delhi border protestors set up three camps where they would remain for a period of 13 months until the farm acts were repealed on November 29, 2021. At each camp, protestors came together creating communities that included free accessible kitchens (langar), health clinics, biweekly newspapers, libraries, performance stages showcasing music, poetry and dance and tractor repair stations.<sup>10</sup>

4 Ronki Ram, “Agrarian Resistance in Punjab,” in *Agrarian Reform and Farmer Resistance in Punjab Mobilisation and Resistance*, ed. Shinder S. Thandi (S.I.: ROUTLEDGE, 2022), 34.

5 Ram, 18–19; Navsharan Singh, “It’s Apathy Which Killed Them: Remembering Punjabi’s Kisans,” *Beyond the Pandemic: (Sustainable Development Policy Institute, 2022)*, 138, JSTOR, <http://www.jstor.org.ezproxy.library.uvic.ca/stable/resrep46221.17>.

6 Singh, “It’s Apathy Which Killed Them: Remembering Punjabi’s Kisans,” 141.

7 Ram, “Agrarian Resistance in Punjab,” 20.

8 Ram, 21; Singh, “It’s Apathy Which Killed Them: Remembering Punjabi’s Kisans,” 139.

9 Shinder S. Thandi, “Mera Pind, Mera Sabyachar, Mera Virsa,” in *AGRARIAN REFORM AND FARMER RESISTANCE IN PUNJAB Mobilisation And (S.I.: ROUTLEDGE, 2022)*, 227.

10 Ram, “Agrarian Resistance in Punjab,” 21–22; Singh, “It’s Apathy Which Killed Them: Remembering Punjabi’s Kisans,” 140.

## The Myth of a Leader

There can be no doubt that the impact of MLK in inspiring the victories of the 1960's Civil Rights Movement for social change in the United States is deeply significant. However, historians have broadened the temporal, geographical and ideological boundaries of Black activism which has, as Pineda notes, "revealed the ideological skew of the prevailing narrative...[including] its depiction of a well-known cast of characters."<sup>11</sup> This skew towards the exceptionalism of MLK dangerously limits how civil disobedience action is theorized, curbing the potential for ordinary citizens to see themselves as able to affect change. First, it conceals the scale and the relentless repetition of behind-the-scenes logistical work done by a host of volunteers and local organizations during the Civil Rights Movement.<sup>12</sup> Additionally, it conceals "an entire geography of political claim-making"<sup>13</sup> that occurred across colonial Asia and Africa where activists engaged in nonviolent protest to achieve their aims.

Pineda argues that consistently limited reference to the writings and speeches of MLK obscures his subject position as enmeshed in "an ongoing, contested discourse"<sup>14</sup> and that the 'long' Civil Rights Movement actually began as an imaginative enterprise with abolitionists, which was carried through the 1930s with radical Black activism and was moulded by the transit of decolonial activism and scholarships. This discourse relies on the work and ideas of hundreds of unacknowledged scholars, activist groups, communities, and networks. Nevertheless, understandings of non-violent protest are analytically bounded by a constructed remembrance of the 'short' 1960s Civil Rights Movement that idolizes MLK and presents him as the single determinant of success.<sup>15</sup> When our history "misrecognizes the work of activism as the repetition of given repertoires, rather than an imaginative enterprise"<sup>16</sup> the types of people, goals, and conditions deemed necessary to launch a successful protest in the modern context are severely limited. Waiting around for a modern Martin Luther King Jr. does a disservice to the work of ordinary people who built a politics of coalition through transnational and intersectional groups, relationships, organizations, and networks long before the 1960s and who continue to do so today.

<sup>11</sup> "Introduction," 13.

<sup>12</sup> Tufekci, "Leading the Leaderless," 66–67.

<sup>13</sup> Pineda, "An Entire World in Motion," 55.

<sup>14</sup> "Introduction," 15.

<sup>15</sup> Pineda, "An Entire World in Motion"; Pineda, "Introduction."

<sup>16</sup> Pineda, "Introduction," 21.

In particular, and in the absence of a single authority figure, a politics of coalition recently grounded one of the most recent successful non-violent protest movements. Throughout the agitational activities of the kisan protests, there was not one individual who could be definitively identified as a leader pivotal to the success of the movement. Instead, the defining feature of the overall protest was its universalism, “comprising people across caste, class, creed, gender, region and professional breakup”<sup>17</sup> including everyone from mothers with newborns, to elderly babas and bibis. Unions, women’s groups, landless labourers, and border communities around New Delhi organized and networked together to build a leaderless, egalitarian, and imaginative politics of coalition. This “heterogeneity of experience”<sup>18</sup> carried the movement forward by providing needed practical and strategic tools to sustain successful occupation in the face of violence, negotiate through conflicting interests, and bridge across identities.

### The Power of Non-Violence

While Barbara Deming, an advocate of nonviolent social change who came to prominence in the 1960s, certainly did not have the Punjabi kisan in mind while arguing for the potential of non-violent protest, their actions embody key thrusts of her argument that non-violent protest can be effective. First, the farmers’ bold direct action exemplified “the equilibrium between self-assertion and respect for others”<sup>19</sup> through building relationships of solidarity. The goals of the farmers were initially only directed at the repeal of the three acts, asserting themselves and their wants, but the successful outcome of pursuing a creative non-violent agitation was dependent on a politics of coalition that was far-reaching and deeply generative. By “open[ing] pathways for building new class alliances”<sup>20</sup> and respecting the role of landless labourers, women, and the Dalits (untouchables) in the agricultural sector and beyond, the protest built “visible, raw and deeply moving”<sup>21</sup> emotional and relational solidarities. This support for the farmers was repaid by allowing those groups—landless labourers, women, and the Dalit class—to have a platform, develop a voice and gain bargaining power.<sup>22</sup> Instead of refusing to work with other groups and elevating self-assertion of the farmers’ individual goals, the protestors practiced egal-

17 Ram, “Agrarian Resistance in Punjab,” 21.

18 Singh, “It’s Apathy Which Killed Them: Remembering Punjabi’s Kisans,” 142.

19 Barbara Deming, “On Revolution and Equilibrium,” in *Revolution and Equilibrium* (New York: Grossman, 1971), 221.

20 Singh, “It’s Apathy Which Killed Them: Remembering Punjabi’s Kisans,” 148.

21 Ram, “Agrarian Resistance in Punjab,” 33.

22 Singh, “It’s Apathy Which Killed Them: Remembering Punjabi’s Kisans,” 143–44.

itarian respect for all members of Indian society—even some civil servants were welcomed in the camps.<sup>23</sup> They effectively facilitated Deming’s equilibrium. Crucially, these connections were not built with passivity. Instead, it was the boldness of the demands of all those engaged in protest, “acting out their determination to change the state of things”<sup>24</sup> which allowed for solidarity to be developed over time between coalitions of groups across Indian society. These generative outcomes of the kisan protest were undeniably due to the leaderless structure that relied on consistent maintenance of a politics of coalition by tending to relationships.

Second, the non-violent politics of coalition advanced by the kisan effectively exerted pressure, power, and force on the Indian government. As Deming argues, power is more than just appealing to the conscience of one’s adversary.<sup>25</sup> PM Modi repeatedly violated protestors’ human rights, leading to 700 deaths, and attempted to defame them through ethnically charged name-calling.<sup>26</sup> Yet, the extent of the kisan’s persuasion of PM Modi’s moral conscience was to force him to “pretend to have [one].”<sup>27</sup> Conversely, the unity of the farmers across state and class boundaries gave them distinctly political “leverage for change”<sup>28</sup> by turning public sentiment against PM Modi in advance of five state elections, including one in the Punjab, in early 2022.<sup>29</sup> In particular, the agricultural industry in India spans many of the northern states encompassing around 263 million workers, who had already witnessed their industry become vital to the maintenance of the Indian state during the COVID-19 pandemic.<sup>30</sup> Thus, the political pressure placed on PM Modi through an “assertive [and] constructive”<sup>31</sup> politics of non-violent non-cooperative coalition building was vital to the success of the kisan mounting an unbeatable challenge to the Indian government.

## The Weakness of Leaderlessness

23 Ram, “Agrarian Resistance in Punjab,” 22.

24 Deming, “On Revolution and Equilibrium,” 217.

25 “On Revolution and Equilibrium.”

26 Ram, “Agrarian Resistance in Punjab,” 25; Singh, “It’s Apathy Which Killed Them: Remembering Punjabi’s Kisans,” 235.

27 Deming, “On Revolution and Equilibrium,” 204

28 Ibid, 205.

29 Jaspreet Kaur Bal and Harman Singh Kandola, “Foreign Interference, Repeal of Farmer’s Bills, BC Floods,” #AskCanadianSikhs the Podcast, n.d., loc. 19:00-19:35, <https://anchor.fm/askcanadiansikhs/episodes/23---Foreign-Interference--Repeal-of-Farmers-Bills--BC-Floods-e1bcog8>.

30 Bal and Kandola, “Foreign Interference, Repeal of Farmer’s Bills, BC Floods”; Singh, “It’s Apathy Which Killed Them: Remembering Punjabi’s Kisans,” 138.

31 Deming, “On Revolution and Equilibrium,” 205.



There is still unfinished business in agrarian India; the absence of minimum support prices (MSP), depletion of water, indebtedness, and land fragmentation all remain unaddressed and keep farmers vulnerable. A question remains about whether more could have been accomplished if there was a central figure to lead the kisan protests? In other words, while leaderless movements can be successful, are they as effective? The galvanization of the kisan protest by social media demonstrates the role of the Internet in facilitating modern protest, particularly non-violent anti-authoritarian leaderless movements.<sup>32</sup> Social media also allowed the voices and actions of the kisan to reach international audiences, which was crucial given the Indian media's pro-government bias and the need for funding, supplies, and political support from foreign governments which was primarily coordinated through the Sikh diaspora.<sup>33</sup>

However, if there is no face for social media users to connect with during protests, how can leaderless ones “signal an organizing capacity powerful enough to threaten those in authority?”<sup>34</sup> This is a weakness of leaderless protests, as a politics of coalition risks the inability to challenge existing authority because there is no alternative person for people to gravitate towards. Even if we call the SKM union representatives ‘protest leaders’—in reality they were mere negotiators—40 people cannot be a leadership figure for the international public to coalesce around.<sup>35</sup> Moreover, many international audiences did not know about the existence of the SKM; and newspaper articles from prominent publications simply referred to the movement as the farmers’ protests.<sup>36</sup> If this were the case, how was this protest able to overcome this weakness inherent to leaderlessness, sustain itself and succeed so effectively in inspiring global coverage and support?

The critical way that the kisan protest was able to subvert this chal-

32 Tufekci, “Leading the Leaderless.”

33 Thandi, “Mera Pind, Mera Sabyachar, Mera Virsa.”

34 Tufekci, “Leading the Leaderless,” 71.

35 Ram, “Agrarian Resistance in Punjab.”

36 “Farm Laws: India Farmers End Protest after Government Accepts Demands,” BBC News, December 9, 2021, sec. India, <https://www.bbc.com/news/world-asia-india-59566157>; Yasmin Gandham, “Local Community Members React to Controversial Agriculture Laws Being Repealed in India,” Global News, November 19, 2021, <https://globalnews.ca/news/8389012/local-community-members-react-to-controversial-agriculture-laws-being-repealed-in-india/>; Mujib Mashal, Emily Schmall, and Russell Goldman, “What Prompted the Farm Protests in India?” The New York Times, January 27, 2021, sec. World, <https://www.nytimes.com/2021/01/27/world/asia/india-farmer-protest.html>; Jessie Yeung, “India’s Farmer Protests: Why New Farm Laws Have Sparked Outrage | CNN,” CNN, March 26, 2021, <https://www.cnn.com/2021/02/10/asia/india-farmers-protest-explainer-intl-hnk-scli/index.html>.

lence of leaderless protests using social media was by drawing on the strong ethnoreligious Sikh diaspora. As Tufekci writes, protests can represent “locations of self-expression and communities of belonging.”<sup>37</sup> The Sikh diaspora is widespread but remains a strong community that is deeply connected to political activities in India. For example, families continue to own land in India or have relatives engaged in farming; Sikh individuals continue to work in agriculture industries in the counties they have migrated to; and Sikh individuals have a substantive presence in Western political and legislative systems.<sup>38</sup> Newer generations of Sikh youth “emerged as the most assertive and articulate activists” using social media to enact change and gain support from their networks, which allowed them to “consolidate[e] their Sikh identity [while] also cement[ing] both inter-generational and intra-generational solidarity.”<sup>39</sup> Through their extensive engagement in domestic civic political and labour organizations, the diaspora exerted unique pressure by lobbying politicians to publicly declare their support for the kisan protests, including Canadian Prime Minister Justin Trudeau.<sup>40</sup> More than 100 civil agriculture and labour organizations across Canada, the United States and the United Kingdom also expressed solidarity with the protestors and prominent Sikh communities in those countries held their own disruptive tractor marches.<sup>41</sup> The actions of the diaspora were essential in helping the leaderless kisan movement counter what Tufekci terms “tactical freeze.”<sup>42</sup> From a completely external place, social media allowed the diaspora to “nudge the movement toward new tactics”<sup>43</sup> without sacrificing its antiauthoritarian horizontal coalition politics or its ability to negotiate.

Relying on a pre-existing diaspora is not a viable pathway for all leaderless protest movements as it is highly dependent on the overall unity of the diaspora, specific people, goals, and contexts of the disobedient activities in question. However, the types of activities that the Sikh diaspora engaged in present tactical options for any international political audience cultivated through social media to mobilize. As a result, leaderless protest movements that are built on a politics of coalition and sustained through online engagement may not have to sacrifice their horizontal antiauthoritarian structure in service of tactics. A compromise can be found between

37 “Movement Cultures,” in *Twitter and Tear Gas: The Power and Fragility of Networked Protest* (New Haven: Yale University Press, 2017), 88.

38 Thandi, “Mera Pind, Mera Sabyachar, Mera Virsa,” 232–33.

39 Thandi, 239–230.

40 Thandi, 230.

41 Ram, “Agrarian Resistance in Punjab,” 7; Thandi, “Mera Pind, Mera Sabyachar, Mera Virsa,” 228–31.

42 “Leading the Leaderless,” 77.

43 Tufekci, 78.

“the power and the fragility”<sup>44</sup> of such movements.

## Conclusion

This essay has explored the 2020-2021 Punjabi kisan protests as a modern case study of successful non-violent agitation built on a leaderless politics of coalition. The ideas of Erin Pineda and Barbara Deming frame the story of the farmers activism as one that asks us to appreciate the power and work of sustained collective organization, imagination, and universalism that lead to a politics of coalition. These processes were critical to the farmers’ ability to exert forceable political pressure on the Indian government and achieve success through non-violent direct action. Although Zeyneb Tufekci identified significant challenges faced by modern leaderless movements that use the Internet to gain support, the Punjabi kisan movement was able to subvert such tactical challenges through extensive diasporic support. In tackling other pressing sociopolitical challenges that characterize the modern world, learning from the Punjabi kisans will be crucial in revitalizing our imaginations about the prospects for leaderless disobedience.

---

44 Tufekci, 82.

## References

- Bal, Jaspreet Kaur, and Harman Singh Kandola. “Foreign Interference, Repeal of Farmer’s Bills, BC Floods.” #AskCanadianSikhs the Podcast, n.d. <https://anchor.fm/askcanadiansikhs/episodes/23---Foreign-Interference--Repeal-of-Farmers-Bills--BC-Floods-e1bcog8>.
- BBC News. “Farm Laws: India Farmers End Protest after Government Accepts Demands.” December 9, 2021, sec. India. <https://www.bbc.com/news/world-asia-india-59566157>.
- Deming, Barbara. “On Revolution and Equilibrium.” In *Revolution and Equilibrium*, 194–225. New York: Grossman, 1971.
- Gandham, Yasmin. “Local Community Members React to Controversial Agriculture Laws Being Repealed in India.” Global News, November 19, 2021. <https://globalnews.ca/news/8389012/local-community-members-react-to-controversial-agriculture-laws-being-repealed-in-india/>.
- Mashal, Mujib, Emily Schmall, and Russell Goldman. “What Prompted the Farm Protests in India?” *The New York Times*, January 27, 2021, sec. World. <https://www.nytimes.com/2021/01/27/world/asia/india-farmer-protest.html>.
- Pineda, Erin R. “An Entire World in Motion.” In *Seeing Like an Activist*, by Erin R. Pineda, 53–90, 1st ed. Oxford University Press New York, 2021. <https://doi.org/10.1093/oso/9780197526422.003.0003>.
- . “Introduction: Civil Disobedience and the Civil Rights Movement.” In *Seeing Like an Activist*, by Erin R. Pineda, 1-C0.P35, 1st ed. Oxford University Press New York, 2021. <https://doi.org/10.1093/oso/9780197526422.003.0001>.
- Ram, Ronki. “Agrarian Resistance in Punjab.” In *Agrarian Reform and Farmer Resistance in Punjab Mobilisation and Resistance*, edited by Shinder S. Thandi. S.l.: ROUTLEDGE, 2022.
- Singh, Navsharan. “It’s Apathy Which Killed Them: Remembering Punjab’s Kisans.” *Beyond the Pandemic: Sustainable Development Policy*

Institute, 2022. JSTOR. <http://www.jstor.org.ezproxy.library.uvic.ca/stable/resrep46221.17>.

Thandi, Shinder S. “Mera Pind, Mera Sabyachar, Mera Virsa.” In *AGRARIAN REFORM AND FARMER RESISTANCE IN PUNJAB Mobilisation And*. S.l.: ROUTLEDGE, 2022.

Tufekci, Zeynep. “Leading the Leaderless.” In *Twitter and Tear Gas: The Power and Fragility of Networked Protest*. New Haven: Yale University Press, 2017.

———. “Movement Cultures.” In *Twitter and Tear Gas: The Power and Fragility of Networked Protest*. New Haven: Yale University Press, 2017.

Yeung, Jessie. “India’s Farmer Protests: Why New Farm Laws Have Sparked Outrage | CNN.” CNN, March 26, 2021. <https://www.cnn.com/2021/02/10/asia/india-farmers-protest-explainer-intl-hnk-scli/index.html>.

# Anti-Hate Legislation in Canada: *Necessary Protection or Dubious Limitation?* By Hector Jardine

## Abstract

In Canada, anti-hate legislation continues to be a judicial realm wherein the necessity and importance of freedom of expression for a free and democratic society is weighed against the equality rights of identifiable minority groups. This study argues for the Court's continued vigilance in assessing anti-hate legislation and explores alternative means of combating discriminatory or potentially dangerous expression without compromising important constitutional principles. The analysis involves an examination of relevant historical and contemporary Supreme Court cases that discuss the potential limitation of individual freedom of expression in order to illustrate the delicate constitutional questions at play.

## Acknowledgments

I would like to thank Dr. Matt James for inspiring this paper through his engaging lectures and pertinent feedback in Poli 320, which inspired me to push myself academically. I would also like to thank my family and friends for their continued support in my life. Finally, thank you to Simone Rutherford for encouraging me to make this submission and thank you to the On Politics team for their continued work throughout the editing process.

An individual's right to openly exchange ideas, come to one's own conclusions and pursue truth, and express these individual truths through action is arguably the most fundamental and important principle within a free and democratic society.<sup>1</sup> Considering the importance of this freedom for the function of a truly free society and its position as the foundation upon which many other fundamental rights and freedoms are based, any restrictions placed upon freedom of expression must be properly justified. The Supreme Court of Canada (SCC) has acknowledged the fundamental nature of freedom of expression and thus has often openly expressed its goal of maintaining this freedom in as broad a scope as possible.<sup>2</sup> Despite this, the SCC still weighs the value of freedom of expression against Section 1 of The Charter and has largely used this reasonable rights clause as justification in considerations regarding the curtailing of freedom of expression in exchange for the protection of competing rights.<sup>3</sup> Hate speech is a salient yet contentious example of this exchange where the Court is forced to weigh the importance of freedom of expression against equality rights of identifiable minority groups, and historically have often ruled towards the constitutional legality of anti-hate speech laws.<sup>4</sup> When examining the relevant previous rulings relating to the curtailment of freedom of expression in regard to hateful speech, one can see that the SCC has rightfully been extremely hesitant, specific, and restrictive in its decisions to limit expression due to the fundamental nature of this freedom and the controversy surrounding any limitations placed on it.<sup>5</sup> Despite the historical care and thoroughness the Court has shown towards the protection of freedom of expression and the importance of protecting identifiable minority groups from both discrimination and violence, contemporary societal and constitutional changes such as globalization, advances in technology, and Bill C-36, create new questions and challenges wherein the Court must endeavour to continue to walk this fine line between the protection of

---

1 Kent Roach and David Schneiderman, "Freedom of Expression in Canada," *Supreme Court Law Review* 61, no. 2d (2013): 429–525; Richard Moon, "Hate Speech Regulation in Canada Papers from the First Amendment Discussion Group," *Florida State University Law Review* 36, no. 1 (2009 2008): 79–98; Supreme Court Judgements, R. v. Sharpe, No. 27376 (Supreme Court of Canada January 26, 2001).

2 Supreme Court Judgements, *Irwin Toy Ltd. v. Quebec (Attorney General)*, No. 20074 (Supreme Court of Canada April 27, 1989).

3 Kent Roach and David Schneiderman, "Freedom of Expression in Canada," *Supreme Court Law Review* 61, no. 2d (2013): 429–525.

4 Emmett Macfarlane, "Beyond the Hate Speech Law Debate: A 'Charter Values' Approach to Free Expression Special Double Issue: The Charter at Forty," *Review of Constitutional Studies* 26, no. 2 (2022 2021): 145–68.

5 Supreme Court Judgements, R. v. Sharpe; Supreme Court Judgements, R. v. Keegstra, No. 21118 (Supreme Court of Canada December 13, 1990); Supreme Court Judgements, *Ward v. Quebec (Commission des droits de la personne et des droits de la jeunesse)*, No. 39041 (Supreme Court of Canada October 29, 2021); Supreme Court Judgements, *Saskatchewan (Human Rights Commission) v. Whatcott*, No. 33676 (Supreme Court of Canada February 27, 2013).

equality and the stifling of fundamental human liberties.<sup>6</sup>

While Section 2(b) rights of freedom of expression regarding hate speech has been well balanced by the SCC to maintain the fundamental essence of freedom of expression while protecting the rights of minority groups, any limitations on expression present the continual possibility of a single court case fundamentally threatening Canadian liberty. From this perspective, the Court needs to remain vigilant when considering anti-hate legislation, as while broad anti-hate legislation could have dangerous constitutional consequences, there seems to be other more effective and practical methods to combat the spread of discriminatory and anti-democratic values.<sup>7</sup> To argue this, this paper will first analyze freedom of expression and the anti-hate limitations which have been placed on them from a constitutional perspective to illustrate the fine line being walked by the Court. Subsequently, I will analyze the dangers of restricting freedom of expression in any form, weighed against the arguments for anti-hate legislation. Finally, I will examine two contemporary Supreme Court judgements on the issue and analyze the verdicts to illustrate the delicate constitutional nature of attempting to limit freedom of expression rights and to explore the future trajectory of freedom of expression in Canada.

To analyze the effectiveness of the Canadian constitution in balancing the importance of freedom of expression with the protection of societal equality, one must first examine the underlying constitutional and theoretical mechanisms that create tensions between these competing rights. Freedom of expression is constitutionally guaranteed in Section 2(b) of Canada's 1982 Charter of Rights and Freedoms, which explicitly gives everyone "freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication."<sup>8</sup> The fundamental nature of this right for the function of Canadian society cannot be understated, as freedom of expression is quite literally "the matrix, the indispensable condition of nearly every other freedom."<sup>9</sup> Despite this, limitations on freedom of expression to combat hateful speech have been found constitutionally valid and are present in subsections 1 and 2 of Section 319 of the Criminal Code, which makes it illegal to 1) communicate statements in public which

6 Mathieu Deflem and Derek Silva, *Media and Law: Between Free Speech and Censorship* (Bingley, United Kingdom: Emerald Publishing Limited, 2021), <http://ebookcentral.proquest.com/lib/uvic/detail.action?docID=6546944>.

7 Moon, "Hate Speech Regulation in Canada Papers from the First Amendment Discussion Group"; Macfarlane, "Beyond the Hate Speech Law Debate."

8 Department of Justice Government of Canada, "Charterpedia - Section 2(b) - Freedom of Expression," November 9, 1999, <https://www.justice.gc.ca/eng/csj-sjc/rfc-dlc/ccrf-ccd/1/check/art2b.html>.

9 Roach and Schneiderman, "Freedom of Expression in Canada," 429; Supreme Court Judgements, *R. v. Sharpe*.



incites hatred against an identifiable group where such incitement is likely to lead to a breach of the peace; and 2) communicate statements other than in private conversation that willfully promote hatred against any identifiable group.<sup>10</sup> Additionally, while Section 13 of the Canadian Human Rights Act, which contained restrictions on communicating in a manner that could expose a person to hatred, was repealed in 2013, similar restrictions exist in many provincial human rights laws.<sup>11</sup>

The Supreme Court has repeatedly emphasized that while these anti-hate laws violate Section 2 Charter rights, they are reasonable limits justifiable in a free and democratic society due to the harm hatred causes and hatred's incompatibility with other Charter values such as multiculturalism and equality.<sup>12</sup> The underlying rationale for this assessment is explained by the SCC in the landmark case in regard to the constitutionality of hateful expression: *R v. Keegstra* (1990).<sup>13</sup> This case involved an Albertan high school teacher who promoted flagrant antisemitism and Holocaust denial to his students and even forced his students to write antisemitic essays.<sup>14</sup> The court ruled 4-3 that a criminal prohibition against hate speech was constitutionally justifiable, with the majority stating that along with the damage they cause through the propagation of hate within communities, hateful expressions had no connection to freedom's underlying values of truth, self-development, or the protection and fostering of an inclusive democracy.<sup>15</sup> In the dissenting opinion however, Justice Beverly McLachlin made a strong case for the position that Section 319(2) too strongly interfered with freedom of expression, as 'hatred' was so broad a term that the law could have a "chilling effect on legitimate activities."<sup>16</sup> She also argued that the censorship of hate speech often gave hatemongers increased publicity which could precipitate more hate towards minority groups than they would be subjected to without censorship.<sup>17</sup> As one can see from the split Keegstra decision and the compelling arguments presented by both

10 "Wilful Promotion of Hatred | Criminal Code, RSC 1985, c C-46 | Federal Statutes / Lois Fédérales," accessed March 22, 2023,

11 Walker, "Hate Speech and Freedom of Expression: Legal Boundaries in Canada," 2.

12 Walker, 2.

13 Roach and Schneiderman, "Freedom of Expression in Canada"; Government of Canada, "Charterpedia - Section 2(b) – Freedom of Expression."

14 Supreme Court Judgements, *R. v. Keegstra*.

15 Supreme Court Judgements; Roach and Schneiderman, "Freedom of Expression in Canada," 463.

16 Supreme Court Judgements, *R. v. Keegstra*; Walker, "Hate Speech and Freedom of Expression: Legal Boundaries in Canada," 10.

17 Supreme Court Judgements, *R. v. Keegstra*; Roach and Schneiderman, "Freedom of Expression in Canada," 464.

the majority and minority, contention surrounding anti-hate legislation is largely due to the fine line between limiting freedom of expression to protect vulnerable minorities, and fundamentally damaging the efficacy of the Charter.<sup>18</sup>

Much of the contention surrounding the limiting of freedom of expression stems from the question of to what extent the promotion of discriminatory expression necessarily leads to the spread of hateful thoughts and actions.<sup>19</sup> As the majority in the Keegstra ruling pointed out, hateful speech is invariably connected to the spread of hatred, and to address the fine constitutional line between protecting minorities and threatening the efficacy of the Charter, they would limit the scope of restriction to the most blatant and extreme promotion of hatred within a community.<sup>20</sup> The problem with this selective approach is not the underlying logic surrounding the importance of protecting minorities, but the pragmatic constitutional problem the regulation of hateful expression presents. As Moon points out, issues arise when attempting to determine whether a particular instance of discrimination caused hatred within a community, as there was likely no particular instance which generated it, yet a wide range of discriminatory statements from extreme to extremely mild may contribute to the spread of hate within a community.<sup>21</sup> From this, the causation question leads to the conclusion that either no hateful expression should be restricted (as no statement alone inherently causes discrimination in a community) or all discriminatory expressions should be restricted (as part of the discriminatory speech which spreads hate).<sup>22</sup>

This issue illustrates the general moral and political polarization between advocates of both sides of the question of anti-hate legislation; as supporters of legislation often simply agree with the latter, and argue that every hateful expression is inherently toxic to society and could be associated with violence; while critics of legislation argue that it is unconstitutional for states to punish individuals for exercising their freedom of expression, no matter how offensive, unless there is explicit intent to incite physical violence against a minority group.<sup>23</sup> The polarizing political nature of these two sides seems to point to a larger political rift within society,

18 Roach and Schneiderman, "Freedom of Expression in Canada."

19 Moon, "Hate Speech Regulation in Canada Papers from the First Amendment Discussion Group," 83.

20 Moon, 83; Supreme Court Judgements, *R. v. Keegstra*.

21 Moon, "Hate Speech Regulation in Canada Papers from the First Amendment Discussion Group," 83.

22 Moon, 83.

23 Macfarlane, "Beyond the Hate Speech Law Debate"; Kathleen Mahoney, "Hate Speech, Equality, and the State of Canadian Law Articles & Essays," *Wake Forest Law Review* 44, no. 2 (2009): 321–52.

wherein members on each side have fundamentally different moral views, which are unlikely to be reconciled through the presentation of evidence and logical argument.<sup>24</sup> Despite this difference in fundamental views, scholarly advocates for hate speech legislation have presented evidence surrounding the global legitimacy of anti-hate legislation, claiming a “wide acceptance of hate speech restrictions both in international law and in every Western democracy other than the United States” to combat arguments that anti-hate legislation is undemocratic.<sup>25</sup> On the other hand, much of the arguments against anti-hate legislation focus on maintaining faith in human reason, a principle that both freedom of expression and democracy are built around. These arguments are targeted against the Court’s views that the problem with hateful expression is the concern that audiences cannot always use rational judgements when considering these claims, and as a result, these claims could gain social traction and spread anti-minority discrimination and violence.<sup>26</sup> Critics of this view argue that if one cannot trust the individual’s ability to recognize truth and exercise reason, then censorship should simply be reduced to the moral determinations of unelected judges to determine an expression to be good or bad for society and subsequently censor the latter.<sup>27</sup> This argument, which claims that “a commitment to freedom of expression means protecting expression for reasons more basic than our agreement with its message, for reasons independent of its content,” is compelling in its presentation of the possibility of anti-hate legislation devolving into the total rejection of constitutional freedom of expression rights.<sup>28</sup>

Another more pragmatic and less theoretical issue with hate speech legislation is that due to the importance of courts walking this fine constitutional line to protect both minorities and constitutional rights, only the most vile, extreme, and public forms of hate speech can be legally restricted.<sup>29</sup> While this sounds desirable in practice, these extreme claims are often the most easily dismissed by members of society, while small “rote, day-to-day microaggressions, coded language, dog whistles, and other forms of rhetoric” are much more prevalent and are also more damaging to society

24 Macfarlane, “Beyond the Hate Speech Law Debate,” 153.

25 Robin Edger, “Are Hate Speech Provisions Anti-Democratic: An International Perspective Academy on Human Rights and Humanitarian Law: Articles and Essays Analyzing the Right to Freedom of Speech and International Human Rights Law,” *American University International Law Review* 26, no. 1 (2011 2010): 119–56.

26 Moon, “Hate Speech Regulation in Canada Papers from the First Amendment Discussion Group,” 89.

27 Moon, 89.

28 Moon, 90.

29 Macfarlane, “Beyond the Hate Speech Law Debate”; Moon, “Hate Speech Regulation in Canada Papers from the First Amendment Discussion Group”; Mahoney, “Hate Speech, Equality, and the State of Canadian Law Articles & Essays.”

due to the way their unthreatening nature makes it easy for them to sneak into social discourse.<sup>30</sup> This type of language is also prone to escalation into more threatening and blatant discriminatory expression and is related to the systemic societal discrimination the Court seeks to prevent through the regulation of expression. This serious issue means that while on one hand, the protection of minorities is a priority of Canadian society, and hate regulation is widely accepted throughout Western democracies, on the other hand, restricting freedom of speech is an extremely slippery slope, and when legislation is made meticulously to account for this slope, it is often rendered somewhat ineffective. The need for these extremely restrictive definitions of hate expression, and the current standard for defining ‘hate’ is illustrated in later sections by examining two contemporary court rulings.

*Saskatchewan (Human Rights Commission) v. Whatcott* is a 2013 case involving four flyers which were distributed publicly by anti-homosexual activist Bill Whatcott.<sup>31</sup> The first two were titled “Keep Homosexuality out of Saskatoon’s Public Schools!” and “Sodomites in our Public Schools!” while the other two were reprints of the same online advertisement with handwritten comments added alongside.<sup>32</sup> The Saskatchewan Human Rights Commission claimed that these flyers violated S.14 of The Saskatchewan Human Rights Code by exposing people to hatred due to their sexual orientation.<sup>33</sup> In this ruling, the SCC was forced to weigh Whatcott’s Charter rights to freedom of religion and freedom of expression under S.2(a) and (b) against the restriction against hatred presented by Saskatchewan’s provincial human rights code.<sup>34</sup> The SCC ruled unanimously that while the provincial legislation did constitute a violation of Whatcott’s S.2 Charter rights, S.14 of Saskatchewan’s Human Rights Code was a reasonable limit justified through the importance of protecting vulnerable groups from facing discrimination due to the publication of hatred.<sup>35</sup> The Court went on to specify that for future cases, the expression at issue must rise to the level of “detestation and vilification” towards an identifiable group to qualify under the law as hatred.<sup>36</sup> The Court further elaborated that the objective of anti-hate speech legislation was not to protect individuals of targeted groups from emotional harm, but instead focus on how reasonable individuals not

30 Macfarlane, “Beyond the Hate Speech Law Debate,” 154.

31 Supreme Court Judgements, *Saskatchewan (Human Rights Commission) v. Whatcott*.

32 Supreme Court Judgements.

33 Supreme Court Judgements.

34 Supreme Court Judgements.

35 Lauren Dancer, “Supreme Court of Canada Delivers Judgment in Hate Speech Case | OHRH,” Oxford Human Rights Hub (blog), March 20, 2013,

36 Macfarlane, “Beyond the Hate Speech Law Debate,” 150.

involved in the targeted group might “reconsider the social standing of the group.”<sup>37</sup> This ruling was important considering how the SCC narrowed the scope of anti-hate legislation by specifying the extreme emotions required for an expression to constitute hatred and by making it clear that free expression rights will be protected unless the expression seeks to affect the broader social status of an identifiable group negatively.<sup>38</sup> Ultimately, the SCC has done a good job of avoiding the slippery slope presented by too broadly limiting S.2 rights, while still protecting marginalized groups from the most extreme forms of hateful expression in this ruling. Despite the narrow scope and clarity regarding the definition of hate expression, the Court has elucidated in this ruling, scholars have expressed concerns regarding the Court’s elimination of arguments taken from a religious point of view.<sup>39</sup> While the Court has been successful in prohibiting the most extreme renditions of hateful speech, the narrow definition afforded to hatred still falls victim to previous scholarly arguments regarding the damaging nature of “day-to-day microaggressions” and “coded language,” as well as assertions regarding the constitutional importance of maintaining faith in the ability of individuals to recognize truth and exercise reason.<sup>40</sup>

Another salient and more recent Supreme Court case regarding anti-hate speech legislation is *Ward v. Quebec (Commission des droits de la personne et des droits de la jeunesse)* (2021). This case involves comedian Mike Ward, who had a segment in his comedy show performance wherein he would make fun of the “sacred cows” of Quebec: members of Quebec’s artistic community one cannot laugh at due to their societal position.<sup>41</sup> During this segment, Ward mocked Jeremy Gabriel, a deaf international child singer with a visible physical disability.<sup>42</sup> In this performance, Ward made multiple comments relating to Gabriel’s disability and his physical appearance, segments of which were posted online and prompted many of Gabriel’s peers to use the same lines to bully him.<sup>43</sup> On behalf of Gabriel and his parents, the Commission des droits de la personne et des droits de la jeunesse presented Gabriel’s case to courts, claiming that Ward had discriminated against him under the Quebec Charter. Ward claimed that

37 Supreme Court Judgements, Saskatchewan (Human Rights Commission) v. Whatcott.

38 Supreme Court Judgements.

39 Dancer, “Supreme Court of Canada Delivers Judgment in Hate Speech Case | OHRH.”

40 Macfarlane, “Beyond the Hate Speech Law Debate,” 154; Moon, “Hate Speech Regulation in Canada Papers from the First Amendment Discussion Group” 89–90.

41 Jennifer Laws, “Free Expression and the Duty to Tolerate,” *TheCourt.ca*, November 17, 2021, <http://www.thecourt.ca/a-duty-to-tolerate-scc-on-free-expression-in-ward-v-quebec/>; Supreme Court Judgements, *Ward v. Quebec (Commission des droits de la personne et des droits de la jeunesse)*.

42 Laws, “Free Expression and the Duty to Tolerate.”

43 Laws.

his expression was protected through free expression rights.<sup>44</sup> The SCC ruled 5-4, with the majority finding that Gabriel had not been discriminated against due to his disability (which would be protected grounds) but because of his status as a celebrity. Moreover, the majority went even further to state that even if it had been because of his disability, Gabriel's right to equally safeguard his dignity had not been impaired.<sup>45</sup> The majority's underlying rationale for this ruling and for future rulings concerning one's right to safeguard their dignity and the right to free expression was the question of whether a reasonable person would see this expression as motivating hatred towards the person or group targeted, and further, if a reasonable person would view the expression as likely to lead to discriminatory treatment of the person targeted.<sup>46</sup> While this ruling does not enter much-uncharted territory in regard to the constitutionality of anti-hate legislation, I believe it exemplifies the difficult questions and fine constitutional lines the SCC is forced to traverse in such cases. The contentious and controversial nature of such cases can be seen from the strong dissents which were made by the minority in this ruling, wherein they focused on the impact of Ward's conduct and mentioned the cruelty and "dehumanizing notions" surrounding the taunting of a disabled child and the bullying he faced as a result.<sup>47</sup> Despite the dissent's focus on the abhorrent nature of Ward's remarks, this case illustrates the fine constitutional line being walked and the slipperiness of the slope involved when placing constitutional limits on free speech, as it is important to consider the overarching societal impact judicial rulings can have on the constitutional future of Canada, regardless of the morality of the specific expression in question.

While the Supreme Court of Canada has been extremely precise, deliberate, and nuanced in its historical rulings to balance the rights of free expression with rights to equality, the proliferation of the internet in combination with the proposed Bill C-36 reforms could present the SCC with new and novel constitutional problems in the near future. Through the increasing interconnectedness associated with globalization, scholars have noted exponential increases in hate speech on the internet worldwide.<sup>48</sup> This is logical, as this interconnectedness allows hateful persons to share similar views, spread hate, and connect with one another on the

---

44 Laws.

45 Supreme Court Judgements, *Ward v. Quebec (Commission des droits de la personne et des droits de la jeunesse)*.

46 Supreme Court Judgements; Laws, "Free Expression and the Duty to Tolerate."

47 Laws, "Free Expression and the Duty to Tolerate"; Supreme Court Judgements, *Ward v. Quebec (Commission des droits de la personne et des droits de la jeunesse)*.

48 Mahoney, "Hate Speech, Equality, and the State of Canadian Law Articles & Essays," 322.

internet through various anonymous mechanisms without accountability. Bill C-36 proposes to change this by amending the Canadian Human Rights Act to explicitly include online hate speech (under the new definition of “detestation or vilification” outlined in the *Whatcott* (2013) case) as a discriminatory practice.<sup>49</sup> While the ratification of this bill would address the noted proliferation of online hate speech and the issue of unaccountability, it would also introduce a host of both constitutional and pragmatic issues.<sup>50</sup> Macfarlane specifically notes the pragmatic difficulties that would be associated with trying to regulate hate speech on social media, as the incredible scale of online traffic combined with issues involving anonymity and jurisdiction would make any attempt at online regulation “either undesirable or impractical.”<sup>51</sup> Furthermore, American scholars have already noted the somewhat subjective and ineffective methods Canada has in regard to anti-hate legislation and have considered the government’s poor track record of actually convicting individuals of hate speech under the Criminal Code as evidence of this.<sup>52</sup> In consideration of the difficulties presented by allowing any legislation that limits freedom of expression, many scholars have argued that instead of narrowing the scope of hate speech to such an extreme level that almost no expression qualifies and attempting to police expression through social media, that the best approach would be to simply focus on ensuring members of society are educated.<sup>53</sup> These arguments contend that instead of censorship, societies should be educating the public on minority issues, history, and the importance of equity, diversity, and difference within a free and democratic society so that citizens can ultimately have faith in the public’s judgment to not be moved by hateful rhetoric.<sup>54</sup> While thoroughly educating the public on these issues would be a difficult endeavour, arguments such as these seem to be the most straightforward and relevant solutions to combat the spread of hate due to the constitutional dilemma governments are presented with when trying to craft effective anti-hate legislation.

---

49 “Government Bill (House of Commons) C-36 (43-2) - First Reading - An Act to Amend the Criminal Code and the Canadian Human Rights Act and to Make Related Amendments to Another Act (Hate Propaganda, Hate Crimes and Hate Speech) - Parliament of Canada,” accessed March 24, 2023, <https://www.parl.ca/DocumentViewer/en/43-2/bill/C-36/first-reading>; Macfarlane, “Beyond the Hate Speech Law Debate,” 155.

50 Mahoney, “Hate Speech, Equality, and the State of Canadian Law Articles & Essays”; Macfarlane, “Beyond the Hate Speech Law Debate.”

51 Macfarlane, “Beyond the Hate Speech Law Debate,” 156.

52 Peter J. II Breckheimer, “A Haven for Hate: The Foreign and Domestic Implications of Protecting Internet Hate Speech under the First Amendment Note,” *Southern California Law Review* 75, no. 6 (2002 2001): 1493–1528.

53 Macfarlane, “Beyond the Hate Speech Law Debate”; Moon, “Hate Speech Regulation in Canada Papers from the First Amendment Discussion Group.”

54 Moon, “Hate Speech Regulation in Canada Papers from the First Amendment Discussion Group”; Macfarlane, “Beyond the Hate Speech Law Debate.”

As one can see from the constitutional challenges and wide range of perspectives present in the consideration of anti-hate legislation, Canadian courts have been forced to sacrifice the practicality of a broad ban on hateful expression to account for the potential constitutional dangers which surround any limiting of Section 2(b) Charter rights of freedom of expression. Overall, the Court has been largely successful in protecting the essence of freedom of expression while still managing to maintain legislation banning the most extreme forms of hate speech. While the anti-hate legislation that currently exists may not be the most practical for the pursuit of the Supreme Court's objective to prevent the spread of hate and discrimination towards minority groups, it undoubtedly still provides some legal protections to vulnerable minorities.<sup>55</sup> Ultimately, while other avenues such as the spreading of inclusive values and broader public education surround the negative effects of systemic oppression and discrimination within democratic society, there are no alternatives to the constitutional right to freedom of expression and the fundamental significance this right represents within a free and democratic society.<sup>56</sup> This difficult concept is what has caused the Court to exercise so much caution when assessing the constitutionality of anti-hate legislation, and it is also this concept which presents the Judiciary with such a difficult task in the wake of advances in technology and the effects of globalization on freedom of expression.

---

55 Breckheimer, "A Haven for Hate"; Macfarlane, "Beyond the Hate Speech Law Debate."mac

56 Moon, "Hate Speech Regulation in Canada Papers from the First Amendment Discussion Group"; Macfarlane, "Beyond the Hate Speech Law Debate."



## References

- Breckheimer, Peter J. II. "A Haven for Hate: The Foreign and Domestic Implications of Protecting Internet Hate Speech under the First Amendment Note." *Southern California Law Review* 75, no. 6 (2002): 1493–1528.
- Dancer, Lauren. "Supreme Court of Canada Delivers Judgment in Hate Speech Case | OHRH." *Oxford Human Rights Hub* (blog), March 20, 2013. <https://ohrh.law.ox.ac.uk/supreme-court-of-canada-delivers-judgment-in-hate-speech-case/>.
- Deflem, Mathieu, and Derek Silva. *Media and Law: Between Free Speech and Censorship*. Bingley, United Kingdom: Emerald Publishing, 2021. <http://ebookcentral.proquest.com/lib/uvic/detail.action?docID=6546944>.
- Edger, Robin. "Are Hate Speech Provisions Anti-Democratic: An International Perspective Academy on Human Rights and Humanitarian Law: Articles and Essays Analyzing the Right to Freedom of Speech and International Human Rights Law." *American University International Law Review* 26, no. 1 (2011 2010): 119–56.
- "Government Bill (House of Commons) C-36 (43-2) - First Reading - An Act to Amend the Criminal Code and the Canadian Human Rights Act and to Make Related Amendments to Another Act (Hate Propaganda, Hate Crimes and Hate Speech) - Parliament of Canada." Accessed March 24, 2023. <https://www.parl.ca/DocumentViewer/en/43-2/bill/C-36/first-reading>.
- Government of Canada, Department of Justice. "Charterpedia - Section 2(b) – Freedom of Expression," November 9, 1999. <https://www.justice.gc.ca/eng/csjsjc/rfc-dlc/ccrf-ccdl/check/art2b.html>.
- Laws, Jennifer. "Free Expression and the Duty to Tolerate." *TheCourt.ca*, November 17, 2021. <http://www.thecourt.ca/a-duty-to-tolerate-scc-on-free-expression-in-ward-v-quebec/>.
- Macfarlane, Emmett. "Beyond the Hate Speech Law Debate: A 'Charter Values' Approach to Free Expression Special Double Issue: The Char-

ter at Forty.” *Review of Constitutional Studies* 26, no. 2 (2022 2021): 145–68.

Mahoney, Kathleen. “Hate Speech, Equality, and the State of Canadian Law Articles & Essays.” *Wake Forest Law Review* 44, no. 2 (2009): 321–52.

Moon, Richard. “Hate Speech Regulation in Canada Papers from the First Amendment Discussion Group.” *Florida State University Law Review* 36, no. 1 (2009 2008): 79–98.

Roach, Kent, and David Schneiderman. “Freedom of expression in Canada.” *Supreme Court law review* 61, no. 2d (2013): 429-525.

Supreme Court Judgements. *Irwin Toy Ltd. v. Quebec (Attorney General)*, No. 20074 (Supreme Court of Canada April 27, 1989).

———. *R. v. Keegstra*, No. 21118 (Supreme Court of Canada December 13, 1990).

———. *R. v. Sharpe*, No. 27376 (Supreme Court of Canada January 26, 2001).

———. *Saskatchewan (Human Rights Commission) v. Whatcott*, No. 33676 (Supreme Court of Canada February 27, 2013).

———. *Ward v. Quebec (Commission des droits de la personne et des droits de la jeunesse)*, No. 39041 (Supreme Court of Canada October 29, 2021).

Walker, Julian. “Hate Speech and Freedom of Expression: Legal Boundaries in Canada,” no. 2018 (n.d.).

“Wilful Promotion of Hatred | Criminal Code, RSC 1985, c C-46 | Federal Statutes / Lois Fédérales.” Accessed March 22, 2023. <https://qweri.lexum.com/w/calegis/rsc-1985-c-c-46-en#!fragment/sec319subsec2/BQCwhgziBcwMYgK4DsDWszIQewE4BUBTADwBdoJC4BmARgE4JEAjSuAJgEoAaZbUwhACKiQrgCe0AORTulMLgQixkqeAEAC-CAAdCVELPmKQAZTykAQpIBKAUQAytgGoBBAHIBhW91Jhm0Umw4Tk4gA>.

# Push and Pull:

## *The Call for Justice and the Failing (and Rescinded) Accountability from the Japanese Government for the “Comfort Women” Survivors*

By Ava Redmond

### Abstract

In World War II, women across the Asia-Pacific were recruited through force or trickery to be “Comfort Women”—a euphemism used for the system of sexual slavery enacted by the Japanese government and military. Despite calls for accountability, the Japanese government has failed to apologize for its actions of abuse during this time and for the harm brought to these women under this system. This paper argues that the “Comfort Women” issue is beyond temporality and borders. It is simultaneously a historical and contemporary injustice due to the continuing failure of political apologies and continued commemoration through statue memorials and activism. The issue is also beyond borders and transnational due to the range of backgrounds of women affected and the work of Asian diasporas.

### Acknowledgements

I would like to thank Dr. Matt James for his Accountability and Injustice seminar, which I took in the spring term of 2023, and for which this paper was written. The conversations he facilitated and the learning he fostered in that seminar are ones that I continue to think about and will take with me as I further my education. I would also like to thank the gracious editors and proofreaders of On Politics for their time and energy, and to Gina Connor from the CIC for reviewing. Lastly, to Simone, for all her time and her effort. To my fellow authors—thank you for your work. It is inspiring and fulfilling to read your writing.

During World War II (WWII), the Japanese government and military created the so-called “Comfort Women” system, a euphemistic term for a state-sanctioned system of sexual slavery, in which women across the Asia-Pacific region were enslaved through force (kidnapping) or under false pretences (trickery).<sup>1</sup> This paper will focus on the “Comfort Women” issue and the lack of accountability demonstrated by the Japanese government for its systemic abuse and military sexual enslavement. I will exclude other governments from my discussions of accountability, such as South Korea, and the Allies of WWII, namely, the United States. Moreover, as the paper does not focus on the accountability of the South Korean or American governments, I will also limit discussions of the institutionalized US military prostitution of South Korean “camp-town women” that took place after WWII. Despite this omission, it is important to note that these systems of sexualized violence and rape are connected.<sup>2</sup> The Japanese government has continually failed to apologize or has rescinded or contradicted the apologies it has made. I argue that the “Comfort Women” issue is simultaneously a historical and contemporary injustice, due to the failed and/or rescinded acknowledgements made by the Japanese government, and the increasing transnational attention through statue memorials and activism. It is also simultaneously transnational and ethnonational, due to the diverse range of nationalities and cultural backgrounds of women affected, and due to the activism work of different Asian diasporas.

This essay will first describe the “Comfort Women” system and the attempts of accountability by the Japanese government, which has mainly been the use of political apologies. I will then discuss the efforts taken by Prime Ministers and Cabinet Secretaries towards accountability through these apologies, along with legal redress. While exploring these apologies, I will also look at the opposition from Japanese ultranationalist channels, along with the mixed reactions to the 2015 Bilateral Agreement regarding “Comfort Women” between Korea and Japan. Lastly, I will discuss transnational activism and its role in the continued push for apologies from the Japanese government, as well as what true accountability may look like for survivors.

1 Yangmo Ku, “National Interest or Transnational Alliances? Japanese Policy on the Comfort Women Issue,” *Journal of East Asian Studies* 15, no. 2 (August 2015): 244, 254, <https://doi.org/10.1017/S159824080000936X>; Yangmo Ku, “Comfort Women Controversy and Its Implications for Japan-Rok Reconciliation,” in *Routledge Handbook of Memory and Reconciliation in East Asia* (Routledge, 2015), 262.

2 I would like to acknowledge that this is a multidimensional issue that transcends borders and time, the aspects of which will be discussed in this paper. However, I am aware that I may use language that may be damaging or recreate rhetoric about the way the “Comfort Women” system operated. In referring to victims, I try to refrain from using the term sex slaves and sexual slavery (Hankyore 2020 in Ushiyama 2021, C. Kim 2016 in Kwon 2019, Oosterveld, 2004). Instead, I use “Comfort Women”, former “Comfort Women”, and “Comfort Women” survivors. However, I utilize the term sexual slavery in descriptions of the system, and to deter narratives created by ultranationalists in Japan. I am wary of my use of those words, and of my use of victim vs. survivor.

## “Comfort Women”

The term “Comfort Women,” as mentioned, is a euphemism for the women held in sexual slavery by the Japanese military and government during the Asia-Pacific War. This began in the 1930s and ended in 1945 with the end of WWII. “Comfort Women” came from a range of states and economic backgrounds—the majority were from Korea, but others came from the Philippines, China, the Dutch East Indies, Taiwan, and, notably, Japan.<sup>3</sup> During the Asia-Pacific War, the Japanese government institutionalized the sexual commodification and systematic dehumanization of women, and this was justified by beliefs about how to prevent rape in war while satisfying male sexual needs, and to prevent or decrease venereal diseases.<sup>4</sup> While there was knowledge of this system by the Allies upon Japan’s defeat in WWII, there were no charges made during postwar crime trials, despite evidence of its existence. Nowadays, this crime has been internationally recognized as sexual slavery, as these women had no freedom in the choice of work or movement, and experienced systematic rape and sexualized violence.<sup>5</sup> As mentioned, “Comfort Women” survivors hailed from various countries across the Asia-Pacific region, but it remains a heavily contested topic of dispute, specifically in relations between Japan and South Korea.<sup>6</sup>

With the rise of democracy and the spread of ideas about liberal democratic human rights in South Korea and other parts of Asia in the late 1980s and early 1990s, the issue of “Comfort Women” slowly came to light. Kim Hak-sun, a Korean survivor of the “Comfort Women” system, first gave testimony to her experiences in August 1991. By testifying, Kim Hak-sun inspired a wave of women to come forward about their experiences as “Comfort Women” survivors. Their initial silence was caused and influenced by the social stigma and shame that was attributed to victims of sexual violence.<sup>7</sup> Prior to Kim Hak-sun’s testimony, few women had disclosed their histories to their families, let alone shared their stories with the world. This testimony was then followed by a lawsuit against the Japanese

3 Stephanie Wolfe, “Redress and Reparation Movements (RRM) in Response to the Japanese Comfort Women System,” in *The Politics of Reparations and Apologies*, ed. Stephanie Wolfe, Springer Series in Transitional Justice (New York, NY: Springer, 2014), 236, [https://doi.org/10.1007/978-1-4614-9185-9\\_7](https://doi.org/10.1007/978-1-4614-9185-9_7).

4 Majia Nadeson and Linda Kim, “The Geopolitics of Public Memory: The Challenge and Promise of Transnational Comfort Women Activism,” *Women’s Studies in Communication* 45, no. 2 (April 3, 2022): 139, <https://doi.org/10.1080/07491409.2021.1954119>.

5 Rin Ushiyama, “‘Comfort Women Must Fall’? Japanese Governmental Responses to ‘Comfort Women’ Statues around the World,” *Memory Studies* 14, no. 6 (December 1, 2021): 1260.

6 Ku, “Comfort Women Controversy and Its Implications for Japan-Rok Reconciliation.”

7 Stephanie Wolfe, “Redress and Reparation Movements (RRM).”

government by three “Comfort Women” survivors (one being Kim Hak-sun), and the issue gained further attention.<sup>8</sup>

### Political Apologies

The main form of accountability exercised towards the “Comfort Women” issue is that of the political apology, which is historical and transnational, and typically deals with human rights violations and war crimes.<sup>9</sup> Since WWII, the Japanese government has given many of these types of political apologies. In doing so, Japan is demonstrating that they are subscribing to the Western-centric international legal system and a Western liberal democratic understanding of human rights norms.<sup>10</sup> Similar to how the testimonies of “Comfort Women” began, the spread of liberal democratic human rights in Asia also triggered Japan’s apologies for their colonial and wartime actions.

Political apologies are a form of state-sponsored history that constructs a narrative for the nation, as it is an action carried out by state representatives, and in the case of Japan, usually the Prime Ministers of the time.<sup>11</sup> With that understanding, the refusal to apologize or the rescinding of apologies in turn is also a form of state-sponsored history. In the case of Japan, both forms of this state-sponsored history exist. Notable about the use of political apologies is the fact that they are not legal practice. Instead, the use of political apologies is a political practice called apology diplomacy. Apology diplomacy responds to legal demands without taking legal responsibility, and these demands are usually made by transnational groups, often regarding unresolved historical issues, especially relating to war and colonialism.<sup>12</sup> Apology diplomacy has become an international norm in the post-WWII era to address state-sponsored wrongdoing, and are given for specific incidents in history.<sup>13</sup> Apology diplomacy usually follows a pattern, in which the responsible party denies its involvement in wrongdoing. In the case of the systemic abuse of “Comfort Women”, the responsible party is the Japanese government. Their denial of their role in this historical injustice thus provokes criticism, and an apology is issued by the same

8 Wolfe, 232.

9 Ažuolas Bagdonas, “Historical State Apologies,” in *The Palgrave Handbook of State-Sponsored History After 1945*, ed. Berber Bevernage and Nico Wouters (London: Palgrave Macmillan UK, 2018), 779, [https://doi.org/10.1057/978-1-349-95306-6\\_42](https://doi.org/10.1057/978-1-349-95306-6_42).

10 Bagdonas, 780–83.

11 Bagdonas, “Historical State Apologies.” 775, 789.

12 Mariko Izumi, “Asian-Japanese: State Apology, National Ethos, and the ‘Comfort Women’ Reparations Debate in Japan,” *Communication Studies* 62, no. 5 (November 1, 2011): 478, <https://doi.org/10.1080/10510974.2011.588299>.

13 Bagdonas, “Historical State Apologies.” 789.

government that denied its role and responsibility for the system in the first place.<sup>14</sup> The political apology and apology diplomacy are offered in place of legal responsibility and financial reparations to the “Comfort Women” survivors and their families. Political apologies and apology diplomacy are set apart from criminal justice and transitional justice and instead are performative acts that look to provide redress.<sup>15</sup> Specifically, it is a verbal performance that takes on a verbal responsibility to respond and fails to take physical responsibility in the form of formal reparations. The political apology also serves the purpose of shifting the blame for the wrongdoing through temporality. By utilizing a political apology, the Japanese government distances itself from its past, instead of addressing the contemporary aspects of the “Comfort Women” issue.<sup>16</sup> By confining the issue to a specific temporal moment and acknowledging that within their apologies, they create the opportunity to consider these historical moments only, with no contemporary consequences.

Aside from the issues about legality and temporality that arise from the political apology, it also creates another problem. Political apologies can serve to recognize some victimhoods, but in doing so, it can obscure other victims. In the case of “Comfort Women”, apologies from the Japanese government and the search for redress often create and recreate a certain kind of “good” victim that is seen as “worthy” of apologies.<sup>17</sup> As the “Comfort Women” issue is multidimensional and transnational, there are often different levels of accepted accountability for different contexts. What is deemed acceptable for attempts towards accountability from the Japanese government can vary for different groups. While they are all bound together by the “Comfort Women” issue, South Korean “Comfort Women” survivors, the Korean diaspora, memorial activists abroad, or Filipino, Chinese, or Japanese “Comfort Women” survivors may all receive and accept different kinds or levels of accountabilities.

As mentioned, recognition of the systemic abuse of “Comfort Women” and the target for the apologies may create another problem. The “Comfort Women” issue is often painted as something between Korea and Japan, as their bilateral relations often snag when considering the issue. While Korean women were the largest demographic within the system and Korea’s

<sup>14</sup> Izumi, 478–79.

<sup>15</sup> Emma Dolan, “Emotional and Gendered Sense-Making through Apologies for Conflict-Related Sexual Violence,” *Global Studies Quarterly* 2, no. 4 (October 1, 2022): 1, <https://doi.org/10.1093/isagsq/ksac024>.

<sup>16</sup> Izumi, “Asian-Japanese,” 480.

<sup>17</sup> Emma Dolan, “The Gendered Politics of Recognition and Recognizability through Political Apology,” *Journal of Human Rights* 20, no. 5 (December 11, 2021): 614–29, <https://doi.org/10.1080/14754835.2021.1981258>.

clashes with Japan at a national level are often referenced when considering accountability for the issue, this has often resulted in overshadowing the voices of other non-Korean survivors.<sup>18</sup> Efforts for redress and accountability are often overshadowed by ethnonationalist narratives and different framings of the issue, leading to different types of accountabilities that may also render some victims more visible than others. In this case and with discussions of bilateral relations on a state level, Korean “Comfort Women” survivors are thus more visible than other “Comfort Women” survivors.<sup>19</sup> Due to this increased visibility, “Comfort Women” who were from Japan are often obscured from apologies from their government due to the attention on the bilateral and transnational levels. Recognition can also look for a certain kind of survivor/victim. While some women were recruited through force or were deceived about what they would be doing, others were former sex workers. These former sex workers, who were forced into the system of military sexual slavery, are often utilized by Japanese ultranationalists to argue against the use of apology and also to create notions of what a “good” victim and what “good” femininity looks like.<sup>20</sup>

### Apologies Made by the Japanese Government

Several Japanese prime ministers have specifically admitted to and issued public apologies for the “Comfort Women” system. In response to international attention and activism, apologies were issued in 1992, 1993, 1995, 1998, and 2001.<sup>21</sup> First, in 1992, Prime Minister Miyazawa Kiichi apologized and acknowledged the “Comfort Women “in service of the Imperial Japanese Army”, which was followed by a government report that confirmed the military’s involvement in the creation and maintenance of the “Comfort Women” system.<sup>22</sup> In 1993, a second report called the Kōno Statement admitted involvement in forceful recruitment. However, it failed to acknowledge that the government and military were the perpetrators behind the system.<sup>23</sup> In a similar fashion, Prime Minister Murayama Tomiichi made similar apologetic statements, but the government still made no effort to compensate victims, as reparations for WWII were claimed to have been settled in previously established treaties.<sup>24</sup> Tomiichi’s apology continues to be seen by organizations, scholars, and activists as the most signifi-

18 Ushiyama, “Comfort Women Must Fall?,” 1267.

19 Dolan, “The Gendered Politics of Recognition and Recognizability through Political Apology.”

20 Nadeson and Kim, “The Geopolitics of Public Memory,” 128.

21 Yangmo Ku, “National Interest or Transnational Alliances? Japanese Policy on the Comfort Women Issue,” *Journal of East Asian Studies* 15, no. 2 (August 2015): 245, <https://doi.org/10.1017/S15982408000936X>.

22 Ku, 253.

23 Ku, 254.

24 Ushiyama, “Comfort Women Must Fall?,” 1261.



cant apology made by Japanese prime ministers. As war reparations were said to have been settled and paid previously, the Japanese government instead established the Asian Women's Fund (AWF), a non-governmental private fund for financial redress. AWF distributed money to some survivors who were willing to accept it, but as it was private and not coming from the government itself, these payments did not count as war reparations.<sup>25</sup> These apologies made by Japanese prime ministers are the verbal expression of changing moral standards and the inclusion of liberal democratic human rights norms in Japan and Asia more broadly, informed by transnational feminist networks.<sup>26</sup> Other apologies include the ones made by Prime Ministers Obuchi Keizo and Koizumi Junichiro, who apologized and expressed remorse in 1998 and 2001, respectively.<sup>27</sup>

## Legal Redress

Besides accountability through political apologies, "Comfort Women" survivors also looked to pursue redress for their injustice through judicial processes. This pursuit of redress through lawsuits and the courts challenges the Japanese mnemonic familiarity of victimhood and discourses of pacifism in the postwar era by pushing them to take responsibility for the "Comfort Women" issue.<sup>28</sup> The first instance of this was the lawsuit filed by Kim Hak-sun and other "Comfort Women" after her testimony, which brought attention to this shift. The demands of "Comfort Women" acted and continue to act as a signal for Japan to re-evaluate its national story. Japan's national self-understanding of its victimhood due to experiencing two nuclear bombs and the subsequent rebuilding of its society has often overshadowed its reflection on its violent colonial history and the victims it left in its wake.<sup>29</sup> While these lawsuits rarely come to the verdict that the survivors look for, or the remedies they seek, they have wider implications for Japanese society. It also reflects a larger problem between Japan and other Asian states, in which other Asian states may believe that Japan lacks remorse over its wartime and colonial actions.<sup>30</sup> Being called to the courts to settle these injustices provides an avenue in which Japan can confront its national imagining. Even the action of survivors filing a lawsuit against the Japanese government can create more discourse and cause more people to

25 Nadeson and Kim, "The Geopolitics of Public Memory," 124.

26 Izumi, "Asian-Japanese," 475.

27 Ku, "National Interest or Transnational Alliances?," 259.

28 Izumi, "Asian-Japanese," 474.

29 Izumi, 483.

30 Ushiyama, "Comfort Women Must Fall?," 1256.

become more informed about the “Comfort Women” issue.<sup>31</sup> When people hear that the Japanese government has been sued for the systemic abuse of the “Comfort Women” survivors, it serves as progress for the movement for public recognition. Redress through legalist paradigms also challenges apology diplomacy and reconstructs apology as a form of reparation (in the place of financial reparation).<sup>32</sup> This demand for apology as a reparation was seen with the Kampu Trial in 1992 and subsequent lawsuits filed by “Comfort Women” survivors, in which the survivors demanded an official apology from the Japanese government.

### **The 2015 South Korean-Japanese Agreement on “Comfort Women” (2015 Bilateral Agreement)**

On December 28th, 2015, a Bilateral Agreement was created between South Korea and Japan to “settle” the “Comfort Women” issue and resolve “[it] finally and irreversibly”—targeting all former “Comfort Women”.<sup>33</sup> This was met with anger from “Comfort Women” survivors and their families, as they were not consulted by either government during this process. As per the 2015 Bilateral Agreement, Japan offered a formal apology and state-funded reparations (¥1 billion) to help establish the Foundation for Reconciliation and Healing in collaboration with the South Korean government.<sup>34</sup> However, to do this, the Japanese government asked for the removal of a statue depicting “Comfort Women” that sits outside the Japanese embassy in Seoul. The signatories of the 2015 Bilateral Agreement considered the matter finally solved, but ultimately failed to settle the issue. The failure of the Agreement was solidified when it was challenged by the words of Prime Minister Abe, who declared not long after the signing that there was no evidence that the “Comfort Women” were taken by force by the military and that the one billion yen was not reparations, but instead was a humanitarian donation.<sup>35</sup> Once again, the Japanese state contradicted itself and did not acknowledge the full scope of the issue. By classifying the one billion yen as a humanitarian donation, they avoid the language of legal reparations for their actions during wartime. As described, this resolu-

31 Lisa Yoneyama, “NHK’s Censorship of Japanese Crimes Against Humanity,” *Harvard Asia Quarterly* 6, no. 1 (Winter 2002): 15–19; Izumi, “Asian-Japanese,” 478.

32 Izumi, “Asian-Japanese,” 481.

33 Emma Dolan, “Sexual Violence, Political Apology and Competing Victimhoods,” *International Feminist Journal of Politics* 22, no. 2 (May 2020): 187–205, <https://doi.org/10.1080/14616742.2019.1577152>; Dolan, “The Gendered Politics of Recognition and Recognizability through Political Apology,” 620; Ushiyama, “‘Comfort Women Must Fall?’,” 1262.

34 Ushiyama, “‘Comfort Women Must Fall?’,” 1262; Vicki Sung-yeon Kwon, “The Sonyosang Phenomenon: Nationalism and Feminism Surrounding the ‘Comfort Women’ Statue,” *Korean Studies* 43 (January 1, 2019): 8.

35 Dolan, “Emotional and Gendered Sense-Making through Apologies for Conflict-Related Sexual Violence,” 5; Kwon, “The Sonyosang Phenomenon,” 12.

tion was to be irreversible and final, but there is no historical finality to the politics of memory.<sup>36</sup> These processes of treaties and bilateral agreements like that of 2015 resign the “Comfort Women” issue to a historical injustice, rendering it a debt paid.<sup>37</sup> The 2015 Bilateral Agreement was thus abandoned. As evidenced by the lawsuits filed by survivors and disagreements with the 2015 Bilateral Agreement, the issue is transformed into something beyond a singular violation, continuing the need for justice, and speaks to the present and the positions of the survivors and the government’s responsibility.<sup>38</sup>

## The Rejection and Rescinding of Political Apologies

Survivor groups often rejected apologies by the Japanese government as they were seen as hollow or insincere. As apologies did not clarify the government’s position in the systemic and forced recruitment of women, they fell short of the expectations of survivors. While accepted by other survivors, Korean “Comfort Women” survivors saw the establishment of the Asian Women’s Fund as insincere or inequivalent to direct state compensation and was understood as a way for the Japanese government to avoid legal accountability and responsibilities.<sup>39</sup>

In addition to the rejection of these apologies by survivors, numerous Japanese administrations over time have also rescinded and abandoned apologies and have continued to fail to recognize the entirety of the injustices faced by “Comfort Women” survivors. The Japanese government recreates the issue as one beyond temporality by apologizing and declaring the issue to be resolved but then contradicting or rescinding apologies. Though they wish to put the issue at rest and say they have done so, they continue to recreate the problems they wish to put to rest. As noted in the section prior, the most significant figure who has rescinded apologies or refused to apologize to the “Comfort Women” survivors was Abe Shinzō. While there has been continuous denial of the experiences of “Comfort Women” survivors by high-ranking officials in the Japanese government or Japanese politics as well as by the media, Abe denied the use of coercion and force, and denied the claims of “Comfort Women” survivors: “There was

36 Carol Gluck, “What the World Owes the Comfort Women,” in *Mnemonic Solidarity*, ed. Jie-Hyun Lim and Eve Rosenhaft (Switzerland: Springer International Publishing AG, 2021), 96.

37 Izumi, “Asian-Japanese,” 478.

38 Izumi, 481–82.

39 Dolan, “The Gendered Politics of Recognition and Recognizability through Political Apology,” 617; Ku, “National Interest or Transnational Alliances?” 261.

no document found that the comfort women were forcibly taken away.”<sup>40</sup> These instances of Abe’s denial and others’ denial are often rooted in claims to protect the Japanese national identity and interests, especially with the rhetoric of victimhood and pacifism within Japan itself.<sup>41</sup> There have also been consistent challenges with the rise of the Japanese right-wing ethnonationalists and ultranationalists, who often use ‘historical revisionism’ to discredit survivors. These groups have also aimed to erase “Comfort Women” and their experiences of abuse from textbooks and ultimately, the historical education of this injustice to the public.<sup>42</sup> Conservative figures in Japan have also made the disgusting assertion and justification that the creation of the “Comfort Women” system was a “necessary evil but also an effective system aimed at protecting women in Japan’s occupied territories.”<sup>43</sup> Conservative politicians in Japan, as evidenced by this rhetoric, have long opposed any efforts of their government to apologize for the sexual slavery system. There is not only a general reluctance within these circles to acknowledge the systemic abuse but also attempts to justify its use. In the past, the Japanese government also pressured NHK Broadcasting to not air documentaries about the institutionalized abuse of “Comfort Women”, despite airing other documentaries about wartime.<sup>44</sup>

### **The Future of Accountability: Transnational Activism, Statue Memorials, and True Accountability**

When asked to consider what sort of results to expect if accountability is successfully pursued for this issue, it is important to highlight and acknowledge the work of Asian diasporas and transnational activism for justice for “Comfort Women” survivors. By organizing for this work, these groups have created transnational feminist networks that go beyond borders. In creating bonds beyond borders, they also go beyond the ethnonationalist narratives that are prevalent in Japanese conservative and right-wing politics, but also within apologies. Local grassroots actors are the reasons behind the commemoration of “Comfort Women” around the world, thus shaping and preserving an international historical memory of “Comfort Women.”<sup>45</sup> As an example of this activism, the first Asian Women’s Solidarity Forum was held in Seoul in August 1992, forming a

40 Hosaka, “Why Did the 2015 Japan-Korea ‘Comfort Women’ Agreement Fall Apart?”

41 Ku, “National Interest or Transnational Alliances?” 244.

42 Ku, 262.

43 Ushiyama, “Comfort Women Must Fall?,” 1261; Ku, “National Interest or Transnational Alliances?” 257.

44 Ku, “National Interest or Transnational Alliances?” 259.

45 Linda Hasunuma and Mary M McCarthy, “Creating a Collective Memory of the Comfort Women in the USA,” *International Journal of Politics, Culture, and Society*, 32, no. 2 (June 2019): 146.

transnational network that was dedicated to pursuing accountability and acknowledgement of the Japanese government's responsibility for the institutionalized abuse of "Comfort Women".<sup>46</sup> The spread and creation of these networks also meant that they were able to raise the issue of the lack of accountability from the Japanese government on the international stage. In one of the first instances of international recognition, the Asian Women's Forum called on the United Nations (UN) to pay attention to the "Comfort Women" issue and the efforts to pursue redress.<sup>47</sup> These networks have continued to organize to bring more attention to the issue and call for the accountability of the Japanese government in its abuse of survivors. As an example of this organization that is still found today, the Wednesday demonstrations are ongoing protests that call for accountability from the Japanese government and are the longest ongoing protests in the world on a single theme.<sup>48</sup> These protests call for accountability and create a space for survivors to come together to mourn their loss or celebrate their survival. It is a contemporary space to acknowledge historical injustices.

Transnational activists have been able to call for the accountability of the Japanese government by not only calling attention to it in international organizations like the UN, but also raising public awareness through the creation of memorials and statues abroad. These are not sponsored by the Japanese government, who oppose their existence. As evidenced by the 2015 Bilateral Agreement, their view on the "Comfort Women" issue usually leads them to call for or demand the removal of these memorials<sup>49</sup>. "Comfort Women" statues around the world serve as a reminder of the issue and reimagine the experiences of "Comfort Women" survivors. Like the Wednesday demonstrations and other ongoing protests for accountability, these women can be mourned as victims, but more often than not, are instead celebrated as survivors. These statues and memorials exist to combat the sexist ethnonationalism that is found so prominently in Japanese right-wing politics. It plays an affective role for viewers and acts to create an identity for Asian diasporas and a physical manifestation of a voice for "Comfort Women" survivors. "Comfort Women" statues and memorials are material, normative, and affective manifestations of history.<sup>50</sup>

46 Ku, "National Interest or Transnational Alliances?," 256.

47 Ku, 257.

48 Nadeson and Kim, "The Geopolitics of Public Memory," 125.

49 Rangsook Yoon, "Erecting the 'Comfort Women' Memorials: From Seoul to San Francisco," *De Arte* 53, no. 2-3 (September 2, 2018): 76-78, <https://doi.org/10.1080/00043389.2018.1481913>; Rin Ushiyama, "Comfort Women Must Fall?," 1259-65.

50 Shanti Sumartojo, "Memorials and State-Sponsored History," in *The Palgrave Handbook of State-Sponsored History After 1945*, ed. Berber Bevernage and Nico Wouters (London: Palgrave Macmillan UK, 2018), 449-76, [https://doi.org/10.1057/978-1-349-95306-6\\_24](https://doi.org/10.1057/978-1-349-95306-6_24).

The creation of these memorials in public spaces, as advocated by transnational Asian diasporic activism, recreated the historical injustice as a contemporary one, rather than confining it to a specific historical moment. With “Comfort Women” statues, the “Comfort Women” issue is beyond temporality. It creates a space in which these instances of history are memorialized and creates visibility for the historical injustice.

Accountability for this issue relies on what “Comfort Women” want, and as mentioned, the different backgrounds that these women come from may call for different kinds of accountabilities. However, “Comfort Women” survivors often look for justice, which, for them, would be recognition. This recognition would manifest in proper apologies that express the explicit involvement of the Japanese government and military and speak of the truth of what happened to survivors. In accompaniment of apologies, survivors and their families often look to reparations and for the government to acknowledge that reparations are their legal responsibility. While the acknowledgement and search for accountability and redress are still being pushed for, the issue is well-acknowledged in the international sphere. Sexual slavery was not recognized under international law as a crime against humanity or as a war crime until 1998, when it was explicitly included in the Rome Statute of the International Criminal Court (ICC).<sup>51</sup> The UN continues to frequently use “Comfort Women” as an example of sexual slavery and gender-based violence in wartime.<sup>52</sup> Despite this international recognition, “Comfort Women” are still pushing for their long-standing demands of legal responsibility and recognition, formal apologies, and state reparations. They are facing off against the pull of the Japanese government’s continuous denial or refusal to apologize.

In conclusion, the Japanese government continues to fail to be accountable for the “Comfort Women” system. They have continued to contradict themselves, rescind apologies, or recreate narratives in which they are not fully responsible for the suffering of these women. This issue involves women from a multitude of backgrounds and has also attracted the attention of Asian diasporas. With this understanding, the “Comfort Women” issue is thus beyond borders. The temporality of the issue is also challenged—while the Japanese government’s plethora of failed apologies has tried to constrain the “Comfort Women” system to a singular historical moment, its failures to resolve the issue contradict this notion. By failing

51 Valerie Oosterveld, “Sexual Slavery and the International Criminal Court: Advancing International Law,” *Michigan Journal of International Law* 25, no. 3 (January 1, 2004): 607.

52 Gluck, “What the World Owes the Comfort Women,” 101.

to properly acknowledge and apologize for their actions, the “Comfort Women” issue is beyond temporality. The demand for political apologies has changed the temporality of political apologies from past-oriented to future-oriented.<sup>53</sup> The transnational memorials and statues also recreate the “Comfort Women” issue as one that is beyond temporality.

There is an inherent problem with the past political apologies regarding “Comfort Women”, and these past apologies have been consistently shut down by “Comfort Women” and their supporters. “Comfort Women” survivors in apologies are confined to a singular category of “proper” victimhood, often ignoring different types of victims that come from different states or economic backgrounds. Some of the searches for justice have also confined it to a matter of the reaction of a state to the maltreatment and violation of their citizens.<sup>54</sup> There is a highly gendered and racialized aspect that needs to be addressed when responding to this issue. Despite the failure of apologies from the Japanese state, transnational activism has proven to be a powerful way for “Comfort Women” to seek some form of accountability. Public education through activism like the Wednesday demonstrations, and the acts of transnational activism and grassroots organizations to create statues and memorials have served to be powerful ways to call for accountability. There is a lot of work to be done by the Japanese government to properly account for their past, especially with the rise of misogynistic ultranationalism in Japan. However, the work of activists internationally and the continued resistance of “Comfort Women” survivors across borders and time to pursue justice has proven that they have not forgotten about the “Comfort Women” system. In their push for justice and their refusal to move on, these survivors and activists have ensured that the world will not forget that the Japanese government has failed to fully recognize and acknowledge the role it played in the establishment and management of the “Comfort Women” system.

---

53 Izumi, “Asian-Japanese,” 474.

54 Wolfe, “Redress and Reparation Movements (RRM) in Response to the Japanese Comfort Women System,” 243.

## References

- Bagdonas, Ažuolas. “Historical State Apologies.” In *The Palgrave Handbook of State-Sponsored History After 1945*, edited by Berber Bevernage and Nico Wouters, 775–99. London: Palgrave Macmillan UK, 2018. [https://doi.org/10.1057/978-1-349-95306-6\\_42](https://doi.org/10.1057/978-1-349-95306-6_42).
- Dolan, Emma. “Emotional and Gendered Sense-Making through Apologies for Conflict-Related Sexual Violence.” *Global Studies Quarterly* 2, no. 4 (October 1, 2022): ksac024. <https://doi.org/10.1093/isagsq/ksac024>.
- . “Sexual Violence, Political Apology and Competing Victimhoods.” *International Feminist Journal of Politics* 22, no. 2 (May 2020): 187–205. <https://doi.org/10.1080/14616742.2019.1577152>.
- . “The Gendered Politics of Recognition and Recognizability through Political Apology.” *Journal of Human Rights* 20, no. 5 (December 11, 2021): 614–29. <https://doi.org/10.1080/14754835.2021.1981258>.
- Gluck, Carol. “What the World Owes the Comfort Women.” In *Mnemonic Solidarity*, edited by Jie-Hyun Lim and Eve Rosenhaft. Switzerland: Springer International Publishing AG, 2021.
- Hasunuma, Linda, and Mary M McCarthy. “Creating a Collective Memory of the Comfort Women in the USA.” *International Journal of Politics, Culture, and Society*. 32, no. 2 (June 2019).
- Hosaka, Yuji. “Why Did the 2015 Japan-Korea ‘Comfort Women’ Agreement Fall Apart?” November 18, 2021. <https://thediplomat.com/2021/11/why-did-the-2015-japan-korea-comfort-women-agreement-fall-apart/>.
- Izumi, Mariko. “Asian-Japanese: State Apology, National Ethos, and the ‘Comfort Women’ Reparations Debate in Japan.” *Communication Studies* 62, no. 5 (November 1, 2011): 473–90. <https://doi.org/10.1080/10510974.2011.588299>.



- Ku, Yangmo. "Comfort Women Controversy and Its Implications for Japan-Rok Reconciliation." In *Routledge Handbook of Memory and Reconciliation in East Asia*. Routledge, 2015.
- Ku, Yangmo. "National Interest or Transnational Alliances? Japanese Policy on the Comfort Women Issue." *Journal of East Asian Studies* 15, no. 2 (August 2015): 243–69. <https://doi.org/10.1017/S15982408000936X>.
- Kwon, Vicki Sung-yeon. "The Sonyosang Phenomenon: Nationalism and Feminism Surrounding the 'Comfort Women' Statue." *Korean Studies* 43 (January 1, 2019): 6–40.
- Nadeson, Majia, and Linda Kim. "The Geopolitics of Public Memory: The Challenge and Promise of Transnational Comfort Women Activism." *Women's Studies in Communication* 45, no. 2 (April 3, 2022): 123–42. <https://doi.org/10.1080/07491409.2021.1954119>.
- Oosterveld, Valerie. "Sexual Slavery and the International Criminal Court: Advancing International Law." *Michigan Journal of International Law* 25, no. 3 (January 1, 2004): 605–51.
- Sumartojo, Shanti. "Memorials and State-Sponsored History." In *The Palgrave Handbook of State-Sponsored History After 1945*, edited by Berber Bevernage and Nico Wouters, 449–76. London: Palgrave Macmillan UK, 2018. [https://doi.org/10.1057/978-1-349-95306-6\\_24](https://doi.org/10.1057/978-1-349-95306-6_24).
- Ushiyama, Rin. "'Comfort Women Must Fall'? Japanese Governmental Responses to 'Comfort Women' Statues around the World." *Memory Studies* 14, no. 6 (December 1, 2021): 1255–71. <https://doi.org/10.1177/17506980211054308>.
- Wolfe, Stephanie. "Redress and Reparation Movements (RRM) in Response to the Japanese Comfort Women System." In *The Politics of Reparations and Apologies*, edited by Stephanie Wolfe, 231–83. Springer Series in Transitional Justice. New York, NY: Springer, 2014. [https://doi.org/10.1007/978-1-4614-9185-9\\_7](https://doi.org/10.1007/978-1-4614-9185-9_7).
- Yoneyama, Lisa. "NHK's Censorship of Japanese Crimes Against Humanity." *Harvard Asia Quarterly* 6, no. 1 (Winter 2002): 15–19.

# Rebuilding the City of Political Depression

By Taylor Nishimura

## Abstract

Drawing from Billy Ray Belcourt's (2020) *A History of My Brief Body*, this article draws an analogy between the City of Victoria, B.C., located on unceded Lekwungen territory, and a museum to explore the affective nature of settler colonialism within the urban landscape. Like a museum, cities are curated. Each piece of art in a museum is collected and positioned relative to each other to tell a story. Likewise, the relationships between the people, objects, and spaces that make up the city denote the place's meaning. This article considers how the ubiquity of Coast Salish symbols and imagery in the public art of Victoria's built environment stands in comparison to the resurgent stewardship of the kwetlal (camas) system on Lekwungen traditional territories. Examining these elements through the lens of place, affect, and materiality, this article subverts the notion of "public art" in a critical examination of how different creative expressions of Indigenous presence are accentuated or made invisible in the built landscape. Illuminating the stories that have been hidden in urban spaces highlights the transformative power of collective expressions of Indigenous creativity.

## Acknowledgements

Thank you to Marco Cioffi, Mayuki Richter and the rest of the OnPol editorial team for your constructive feedback and Simone Rutherford for your tireless work on this journal. I would also like to give a special thank you to Dr. Kelly Aguirre for your thoughtful feedback as well as the generosity and care you display as a professor. I am thankful for your guidance and support both in the classroom and beyond. This paper reflects a culmination of what I have learned in the last five years both as a student and as a settler living on the lands of the WSÁNEĆ and Lekwungen-speaking (Songhees and Esquimalt) Peoples. I am grateful for what I have learned and humbly look forward to a lifetime of further learning.

## Introduction

Picture a museum where artifacts and art pieces are curated to create an exhibit. The exhibit creates a narrative—each piece situated next to the other to tell a story or to generate an emotional response. Any item taken out of context becomes void of this broader meaning. The exhibit is not created by each isolated piece but by the relationships between each piece. Now imagine that this museum is a city. In order to construct the city, each element, the roads, the streets, the houses, and the people, is also curated. Likewise, it is not just the physical structures or people occupying it that turns a space into a city. The relationships between all of these give the space its meaning. If the city is a museum, then you can think of the state as a curator. In Canada, cities are more than a built landscape but a constructed system embedded with layers of political subjectivities. Consequently, settler colonialism is built into the physical infrastructure of the city. Colonialism is encoded in the physicality of the city and felt by the bodies that walk through it. However, urban Indigenous peoples have always existed in Canadian cities, creating communities and a sense of Indigenous place within the city.

This paper seeks to examine the relationship between the aesthetics of the colonial city and the political subjectivity that demands settler colonial continuity. Through contrasting the presence of Kwakwaka 'wakw imagery with the erasure of Lekwungen presence in downtown Victoria, this paper describes Lekwungen kwetlal (camas) stewardship as a form of creative Indigenous resurgence to disrupt the reconciliatory appropriation of Indigenous symbols through public art. Drawing from Billy Ray Belcourt, this paper illustrates the transformative power of collective expressions of Indigenous creativity in urban spaces. Building a city that allows for the recognition of the wholeness of the Indigenous peoples within it requires the celebration, rather than denial, of indeterminacy. In subverting what is seen as art, the revitalization of the kwetlal system illuminates the containment through which the city was built to the observer. Re-storying the city through collective expressions of Indigenous creativity is not about making Indigenous resurgence legible to the colonial gaze—Indigenous resurgence exists whether the settler sees it or not—it is about confronting categorical containment with enactments of care.

## Damage-Centered Narratives of Urban Indigeneity

Over half of the Indigenous population in Canada lives in urban centers.<sup>1</sup> However, contemporary urban Indigeneity is tied to the colonial context of the historic removal of Indigenous peoples from urban settlements and the spatial demarcation of Indigenous bodies and spaces. This has alienated urban Indigenous populations from the (white) Western mainstream.<sup>2</sup> Indigenous culture was viewed as incompatible with and a significant barrier to success in the city. Those who migrated to cities were thought to have rejected their traditional cultures to integrate within Canadian settler society.<sup>3</sup> Federal Indian policy imposed spatial restrictions on Indigenous peoples and the reserve system functioned to racialize Indigenous peoples to render urban Indigeneity as unnatural. Under this system, Indigenous political orders and land-based practices are only legitimized in rural and reserve spaces.<sup>4</sup> Moreover, damage-centered research, “research that operates...from a theory of change that establishes harm or injury in order to achieve reparation,” pathologizes pain in urban Indigenous communities and marks those existing in these urban spaces as deficient.<sup>5</sup> As this type of research narrative has gained popularity since the turn of the century, trauma and cultural loss has been used to define Indigenous communities within the city.<sup>6</sup> This paper begins with this short overview of damage-centered narratives of urban Indigeneity to contextualize what stories are built into the Canadian city. In the following section, I will consider the presence of Indigenous symbolism in Victoria, British Columbia (BC) to illustrate how urban Indigeneity has been categorically foreclosed in the city of Victoria.

### Indigeneity in the Urban Landscape

#### Kwakwaka 'wakw Art and the Aesthetics of Reconciliation

1 National Association of Friendship Centres (NAFC), *Urbanization and Indigenous Peoples in Canada*, (Ottawa: NAFC, 2021), 3, <https://nafc.ca/downloads/un-questionnaire-from-the-special-rapporteur-on-the-rights-of-indigenous-peoples-2021.pdf>.

2 Dallas Hunt, “The Place Where the Hearts Gather”: Against Damage-Centered Narratives of Urban Indigeneity.” In *Visions of the Heart: Issues Involving Indigenous Peoples in Canada* (5th Ed.), eds. Starblanket, Long and Dickason, (Oxford: Oxford University Press, 2020), 96.

3 Mary Jane Norris, Stewart Clatworthy, and Evelyn Peters. “The Urbanization of Aboriginal Populations in Canada: A Half Century in Review.” In *Indigenous in the city: contemporary identities and cultural innovation*, ed. Evelyn J. Peters & C. Andersen. (UBC Press, 2013), 29-31.

4 Hunt, “The Place Where the Hearts Gather,” 98.

5 Eve Tuck “Suspending Damage: A Letter to Communities.” *Harvard Educational Review* 79, no. 3 (September 1, 2009): 413, <https://doi.org/10.17763/haer.79.3.n0016675661t3n15>.

6 Hunt, “The Place Where the Hearts Gather,” 99; Tuck, “Suspending Damage,” 413.

In Thunderbird Park, located in downtown Victoria, a Kwakwaka'wakw big house, Wawadit'la (Mungo Martin House), and several totem poles stand proudly between the B.C.'s provincial legislature and the Royal B.C. Museum. Less than a kilometre away stands the Story Pole in Beacon Hill Park. Both the House and the Story Pole were erected in the 1950s, carved by the late Chief Mungo Martin, also known as Nakapankam, an acclaimed Kwagu'ł carver.<sup>7</sup> On the city of Victoria's website, these structures are characterized as symbols that celebrate traditional Kwakwaka'wakw knowledge and history. They are praised for the authenticity of both the carving process as well as their details and are advertised as a tourist attraction.<sup>8</sup> Kwakwaka'wakw imagery is part of downtown Victoria's urban landscape, Indigenous symbolism becomes part of a prominent public site. At the same time, these landmarks bear little reference to the Lekwungen territory in which they have been erected. Visual markers of Indigeneity are detached from referent to local nations and art, perpetuating a form of erasure that abstracts both the land and these structures from their specific contexts.

Following the Truth and Reconciliation Commission's (TRC) 2015 '94 Calls to Action,' the promotion and display of Indigenous art has become a significant channel for reconciliatory dialogue.<sup>9</sup> However, the presence of these types of Indigenous symbols in the urban landscape reflects a type of cultural recognition critiqued by Indigenous thinkers and activists such as Glen Coulthard.<sup>10</sup> The politics of recognition, as described by Coulthard, describes how the Canadian state recognizes and accommodates Indigenous nations to uphold colonial power relations.<sup>11</sup> Cultural recognition, under liberal multiculturalism, functions to organize Indigeneity as a cultural identity as opposed to a political land-based identity. Coulthard also criticizes state-sanctioned approaches to reconciliation for situating settler colonial violence in the past, therefore absolving the state's responsibilities for ongoing structures of settler colonial dispossession. Moreover, the emphasis on Indigenous cultural recognition and accommodation domesticates Indigenous identities as part of the Canadian nation to maintain

7 Jacknis, Ira. "Authenticity and the Mungo Martin House, Victoria, B.C.: Visual and Verbal Sources." *Arctic Anthropology* 27, no. 2 (1990): 1–12.

8 "Mungo Martin House - Historical Places of Victoria, B.C.," *Discover Victoria BC, International City of Adventure*. (blog), accessed April 9, 2023, <https://www.victoriabc.ca/historical-buildings/mungo-martin-house/>.

9 Gabrielle L'Hindolle Hill and Sophie McCall. "Introduction." In *The Land We Are: Artists and Writers Unsettle the Politics of Recognition*, ed. Gabrielle L'Hindolle Hill and Sophie McCall (Winnipeg: ARP Books, 2015), 2.

10 L'Hindolle Hill and McCall. "Introduction," 2.

11 Glen S. Coulthard, "Introduction" in *Red Skin, White Masks: Rejecting the Colonial Politics of Recognition*, (University of Minnesota Press, 2014), 1–24 b, <http://www.jstor.org/stable/10.5749/j.ctt9qh3cv.7>.

colonial state power.<sup>12</sup>

In Vancouver and Victoria, located on the respective unceded territories of the  $x^w m \theta k^w \dot{a} y \dot{a} m$  (Musqueam),  $S k w x w \acute{u} 7 m e s h$   $\dot{U} x w u m i x w$  (Squamish), and  $s \dot{a} l i l w \dot{a} t \dot{a} t$  (Tsleil-Waututh), and the Songhees and Esquimalt Nations, Coast Salish visual imagery is a familiar part of the cities' urban landscapes. The visually striking patterns and designs, often depicting animals native to the Pacific Northwest, are found in the cities' universities, office buildings, street art and even police cars.<sup>13</sup> Despite the presence of Indigenous markers, these displays do little to acknowledge the position of these cities on unceded territories. This tells a story of multicultural cities that accept and celebrate Indigeneity through visual markers of Indigenous symbolism that are detached from the physical violence embedded in the cities' structures. This illustrates a city that has successfully integrated Indigenous life into the Canadian mainstream. Erecting Indigenous symbolism in this way can be understood as aestheticization that "engenders a sanitization of history."<sup>14</sup> For example, in 1923, the Vancouver Parks Board purchased and erected a collection of totem poles in Stanley Park with the eventual goal of constructing a "replica First Nations Village."<sup>15</sup> These totem poles were displayed directly after the forcible removal of the last Indigenous residents from the park. Those who inhabited the area were replaced by importing Indigenous imagery not local to the region. In other words, this act facilitated erasure by replacing "... indigenous Indigeneity [with]... a sanitized Indigeneity got from elsewhere." Indigenous symbols are placed on the urban landscape as public art is a measure of control. Here, the settler government creates the illusion that the city welcomes Indigeneity without acknowledging the coloniality of its presence.

Kwakwaka 'wakw structures, such as a big house or totem pole, hold political agency. Totem poles tell a story. They embody knowledge that is tied to the context of their creation.<sup>16</sup> When totem poles, which are also understood to be entities or have spirit, are brought into the urban landscape in Victoria, they are, in a sense, curated. Curation becomes a dialectical tool. To curate public art means to bring something into the attention of the public's view. The curator has power to designate value, they present

12 Coulthard, "Introduction."

13 Dylan Robinson and Karen Zaiantz. "Public Art in Vancouver and the Civic Infrastructure of Redress." In *The Land We Are* (See Note 8), 22.

14 Dylan Robinson, "Intergenerational Sense, Intergeneration Responsibility," In *Arts of Engagement: Taking Aesthetic Action in and Beyond the Truth and Reconciliation Commission of Canada*, ed. Dylan Robinson and Keavy Martin (Waterloo: Wilfred Laurier University Press, 2016), 57.

15 "Totem Poles," accessed April 9, 2023, [https://indigenousfoundations.arts.ubc.ca/totem\\_poles/](https://indigenousfoundations.arts.ubc.ca/totem_poles/).

16 *Totem: The Return of the G'psgolox Pole*, 2003, <https://www.youtube.com/watch?v=05C5Ub19exM>.

the public with certain stories and narratives.<sup>17</sup> The public of the public Indigenous art that has been curated by the state, are settlers. Public Indigenous art becomes part of a settled landscape.<sup>18</sup> The colonial desire to control begins with “refusing the living, relational value of these entities.”<sup>19</sup> Categorizing these as “art” takes a complex relational structure and turns it into an object that can be knowable for the colonial gaze.<sup>20</sup> This curation of public Indigenous art can displace this relational and symbolic value held in a physical object. In the city, it is not just Indigenous objects and symbols that are categorically contained, but Indigenous bodies through racialization. Indigenous bodies themselves are contained as something knowable to the settler.<sup>21</sup> The Canadian city was built as part of an empire. For Indigenous land to become a city, it must be defined as distinct—creating a set of differences between settler spaces and native spaces and settler bodies and native bodies.<sup>22</sup> Knowledge is a critical facet of the settler state’s ability to govern such spaces. Thus, categorical distinctions are embedded in infrastructure and language, coercing emotional responses within urban spaces. This categorization fragments people, objects and sites that contain multitudes of meanings to be knowable for the colonial gaze.<sup>23</sup> Indigeneity itself becomes a type of categorical marker, something that must be proven and performed to be measured on the basis of cultural recognition.<sup>24</sup> Distinction and difference build the city.

The Wawadit’la frontal totem pole bears Nakapankam’s own family’s crest, as well as crests to represent several Kwakwaka’wakw clans. Wawadit’la itself was modelled after the big house built in Fort Rupert by the chief who Nakapankam had inherited his name and position.<sup>25</sup> A large potlatch, the first legal and public one since the 1889 government ban,

17 Boris Groys, “Politics of Installation,” *E-Flux Journal*, no. 2 (January 2009), <https://www.e-flux.com/journal/02/68504/politics-of-installation/>.

18 Dylan Robinson, “Reparative Interpellation: Public Art’s Indigenous and Non-Human Publics,” *Journal of Visual Culture* 21, no. 1 (April 1, 2022): 69–84, <https://doi.org/10.1177/14704129221088299>.

19 David Garneau, “Imaginary Spaces of Conciliation and Reconciliation: Art, Curation and Healing.” In *Arts of Engagement: Taking Aesthetic Action in and Beyond the Truth and Reconciliation Commission of Canada*, ed. Dylan Robinson and Keavy Martin (Waterloo: Wilfred Laurier University Press, 2016), 25.

20 Garneau, 26.

21 Audra Simpson, “Ethnographic Refusal: Anthropological Need,” in *Mohawk Interruptus: Political Life Across the Borders of Settler States* (Duke University Press, 2014), 96, <https://doi.org/10.1215/9780822376781-004>.

22 Cole Harris, “Native Space,” in *Making Native Space Colonialism, Resistance, and Reserves in British Columbia* by Eric Leinberger, Brenda and David McLean Canadian Studies Series (Vancouver, B.C.: UBC Press, 2002), 268, <https://doi.org/10.59962/9780774850230>.

23 Simpson, 102; Deborah Cowen, “Following the Infrastructures of Empire: Notes on Cities, Settler Colonialism, and Method,” *Urban Geography* 41, no. 4 (April 20, 2020): 479–80, <https://doi.org/10.1080/02723638.2019.1677990>.

24 Arvin Maile. “Indigeneity.” In *Native Studies Keywords*, eds. Stephanie Nohelani Teves, Andrea Smith, and Michelle H. Raheja. (Tucson: University of Arizona Press, 2015), 121.

25 Jacknis, “Authenticity and the Mungo Martin House, Victoria, B.C.: Visual and Verbal Sources.”

commemorated the houses opening.<sup>26</sup> The stories at this potlatch stressed the significance of the continuity of Kwakwaka'wakw histories, as one speaker explained, "This house has a story."<sup>27</sup> Wawadit'la is a storied structure, built to ensure the passing of traditions and knowledge at a time when cultural practices had been banned.<sup>28</sup> However, displayed as "public art" in downtown Victoria, Wawadit'la is stripped from this meaning, becoming an object for settler consumption. The Story Pole in Beacon Hill Park, which features ancestors from the Gitxsan clan of the Kwagu'ł, is displayed on the urban landscape as an attraction in a public park.<sup>29</sup> The slope where the Story Pole stands was not only a popular place for leisure and rest for Lekwungen people but was once "the most productive camas territories on Vancouver Island."<sup>30</sup> This land is called mícqən in Lekwungen, which means "warmed by the sun."<sup>31</sup> However, curating and displaying Indigenous symbols detached from the stories of both these structures themselves and the lands on which they stand, perpetuates a kind of dual erasure. Both Lekwungen, and Kwakwaka'wakw histories are hidden.

### Kwetlal as Presence

Kwetlal, the Lekwungen word for Camas, is a flowering plant with small starchy edible bulbs that is a central component of Vancouver Island's Garry Oak ecosystems.<sup>32</sup> These bulbs have been central food and trade items for the Lekwungen people for generations. Cultivating the kwetlal meadows was a lengthy process involving careful preparation. Before the arrival of settlers to the area, Lekwungen women cleared the meadows of debris and weeds through prescribed annual burns. Kwetlal is both an integral food source and a central actor in a complex economic and cultural relational network.<sup>33</sup> For the Lekwungen People, the value of kwetlal is diverse, stemming from both the practical significance of a food and trade resource as well as its cultural centrality. Following the arrival of settlers, land development and the encroachment of several invasive species have posed a physical threat to these ecosystems, while the categorical contain-

26 "Mungo Martin House - Historical Places of Victoria, B.C.," *Discover Victoria BC, International City of Adventure*. (blog), accessed April 15, 2024, <https://www.victoriabc.ca/historical-buildings/mungo-martin-house/>.

27 Jacknis, "Authenticity and the Mungo Martin House," 12.

28 Jacknis, "Authenticity and the Mungo Martin House."

29 Charles James Nowell, *Smoke from Their Fires: The Life of a Kwakiutl Chief* (Prospect Heights, Ill: Waveland Press, Inc., 1996).

30 Janis Ringuette, "Camas Country," accessed April 9, 2023, [https://beaconhillparkhistory.org/articles/120\\_cam-as\\_country.htm](https://beaconhillparkhistory.org/articles/120_cam-as_country.htm).; "Ləkʷəŋəŋ Traditional Territory," Songhees Nation, accessed April 15, 2024, <https://songheesnation.ca/community/l-k-ng-n-traditional-territory>.

31 Janis Ringuette, "Camas Country."

32 Ringuette, "Camas Country."

33 Ringuette.



ment of the land inhibits Indigenous land-based practices. Cheryl Bryce, a Songhees knowledge keeper recounts being with her grandmother on her ancestral homelands harvesting kwetlal and being told by city authorities that they were not allowed to harvest in ‘city parks.’<sup>34</sup>

Camas, or kwetlal (depending on the observer’s perspective), is part of Victoria’s urban landscape. However, its presence affects its observer differently when taken out of its cultural context. Suppose you know this story of the significance of the kwetlal system and the consequences of its erasure. In that case, the kwetlal bloom in the park reflects Lekwungen presence. However, this story is invisible to the unknowing settler observer. The plant is not a site for knowledge production and community—it becomes a pretty flower in a city park. What gives kwetlal such significant value for the Lekwungen is invisible to the unknowing eye; it sits beneath the ground. Nonetheless, just because this cannot be seen does not mean it has not existed. This meaning continues to exist, regardless of if it can be seen.

### A City of Political Depression

Let us return to our museum metaphor. Curating a museum involves categorizing different pieces of art or objects to convey meaning. The final product, and exhibition, tell a story relationally. When taken out of context, the meaning of each piece becomes altered. An exhibit becomes meaningful through the relationship of each piece next to the other. Likewise, a city is physically constructed in the existing landscape. The city’s materiality, the roads, houses, hospitals, etc., are built, marking the land for urban settlement. It is not the people that create the city, the land, or the physical infrastructure— it is the relationships between each element.<sup>35</sup> A city is curated like a museum, but instead of art and artifacts, it is people, land, and structures that are chosen, categorized, and contained, to create a narrative.<sup>36</sup> This narrative becomes powerful and consuming through its portrayed objectivity—the city is seen as sure, stable and final. Fiction can be built into the urban landscape to create a sense of fact.

In the first chapter of *A History of My Brief Body*, Billy-Ray Belcourt

34 Jeff Corntassel and Cheryl Bryce, “Practicing Sustainable Self-Determination: Indigenous Approaches to Cultural Restoration and Revitalization Indigenous Political Actors,” *Brown Journal of World Affairs* 18, no. 2 (2011): 151–66.

35 Brian Larkin, “The Politics and Poetics of Infrastructure,” *Annual Review of Anthropology* 42, no. 1 (2013): 329, <https://doi.org/10.1146/annurev-anthro-092412-155522>.

36 Billy-Ray Belcourt, “Introduction: A Short Theoretical Note,” in *A History of My Brief Body* (Penguin, 2020), 7–10.

paints an image of himself as “...both native to and an exile in a museum [of political depression].”<sup>37</sup> If we consider the city as a museum of political depression, and urban Indigenous peoples narrated as an exhibit of this museum, Belcourt’s words recount how living Indigeneity is denied in the city. In the museum of political depression, Belcourt is born into a world that denies both his life and existence as a queer Indigenous person. Born into a colonial world, Belcourt must prove that he is deserving of something of which he has always possessed the right, that is, the right to exist as his whole self. In the museum of political depression, Indigenous bodies are made into “vessels for a vengeful past.”<sup>38</sup> The city is not built for the people who live within it. In the city as a kind of museum of political depression, Indigenous people are forced to live up to a measure of Indigeneity, proving their deservingness and presence, all while being beholden to a narrative of their trauma. However, there are gaps in this logic. The damage-centered narratives that reproduce stories of erasure and loss, do not represent the ways that urban Indigenous life refuses containment.<sup>39</sup> In this museum, Belcourt learns to walk along the ceiling, spotting breaks in the clouds of misery where hope disappears. In this museum, Belcourt learns to subvert this story.

For Belcourt, joy is the mechanism that disrupts embedded systemic oppression. Joy is “caught up in an ancestral art of world-making in the most asphyxiating of conditions.”<sup>40</sup> When urban Indigeneity is tied to damage, trauma, and deficit, joy is an impossible desire. As such, finding joy reveals the flaws of colonial logic. Joy disrupts the finality of a city built on Indigenous exclusion, revealing the fiction that foregrounds fact. Belcourt finishes this chapter by asking the reader to join him:

I have to tell my story properly, and to do this I need to guide you through a cacophony of things that could break a heart without negating the sociological import of our enactments of care. I’m up against decades and perhaps centuries of a literary history that extracted from our declarations of pain evidence of our inability to locate joy at the centre of our desire to exist. With you, I can rally against this parasitic way of reading, this time-worn liberal sensibility. Together we can detonate the glass walls of Canadian habit that entrap us all in compressed forms of subjectivity.<sup>41</sup>

37 Belcourt, 8.

38 Belcourt, “Introduction,” 9.

39 Hunt, “Where the Hearts Gather,” 103.

40 Belcourt, 9.

41 Belcourt, 10.

Belcourt addresses the reader directly. Building a new world, creating a city that celebrates its multiplicities rather than attempting to contain them, is a shared project. Indigenous peoples have lived and built worlds in cities for as long as they have existed. Resurgent acts of Indigenous creativity, such as the tending to the kwetlal system, demonstrates the continuity of urban Indigenous place-making in refusal of colonial containment.

## Re-storying the City

A city is more than its built environment, cities are made up of different elements brought together in alignment. In this sense, cities are not fixed spaces, but relational places that are not fixed in time nor meaning.<sup>42</sup> Cities are places where the physical (buildings, objects, monuments) meet the expressive (affect, language, ideas).<sup>43</sup> The bodies within these cities become and embodied space, where human experiences “take on material and spatial form.”<sup>44</sup> In her conversation with Robyn Maynard, *Rehearsals for Living*, Leanne Simpson recounts the affective or emotional response triggered in her body while standing next to a statue of Egerton Ryerson, an architect of the residential school system.<sup>45</sup> Simpson feels horror, trauma, and shame. She then considers how this statue would affect her if it was of a “young, queer Indigenous and Black activist”— how would this change the narrative?<sup>46</sup> While standing next to this statue, erected on her people’s traditional territories, Simpson’s body becomes a site of interaction between a colonial symbol, intergenerational trauma, and Indigenous resistance and resurgence. This embodied response leads us to the question: How can a city recognize the humanity of the Indigenous body in consideration of the context of colonial violence, without entrapping them in the subjectivities of the colonial world? In Victoria, the built environment is felt by those who walk through it. The city itself however is constructed by a broader process of negotiation and storytelling that signals both belonging and erasure.

42 Colin McFarlane, “The City as Assemblage: Dwelling and Urban Space,” *Environment and Planning D: Society and Space* 29, no. 4 (August 1, 2011): 649–71, <https://doi.org/10.1068/d4710>.

43 The Re-Arrangements Collective et al., “ON URBAN RE-ARRANGEMENTS: A Suite in Five Movements,” *International Journal of Urban and Regional Research* 47, no. 3 (2023): 461–70, <https://doi.org/10.1111/1468-2427.13160>.

44 Arijit Sen, Lisa Silverman, and EBSCOhost, *Making Place: Space and Embodiment in the City*, 21st Century Studies (Bloomington: Indiana University Press, 2014), 20.

45 Egerton Ryerson was a former Chief Superintendent of the Ontario Public School System. In this position, Ryerson played an instrumental role in the design of the Residential School System. He is the namesake for Ryerson University. See Robin Maynard and Leanne Simpson, “We Are Peoples of The Lands, of More Lands Than Could Ever be Counted,” in *Rehearsals for Living* (Toronto: Knopf Canada, 2022), 222.

46 Maynard and Simpson, “We Are Peoples of The Land,” 224.

The use of public Indigenous art in settler cities can reflect a type of appropriation that tells a story of reconciliation and integration. When placed out of context, a structure that is a site of converging relationships and layers of meaning can be made into an object that can be knowable and containable. Turning storied structures such as big houses and totem poles into public art not only functions as a form of containment, but it also tells the story of a settled city. Indigenous symbolism becomes a facet for cultural celebration, naturalizing the colonial politics of recognition on the urban landscape.<sup>47</sup> The colonial containment of Indigeneity becomes a site for embodiment. However, if art is a categorical indicator, what happens if this category is subverted? What if the city thought of the kwetlal meadows as public art, and of the Lekwungen stewards of the kwetlal system as the caregivers for this art? What makes kwetlal so significant for the Lekwungen people is not the aesthetic value of the flower but rather what is hidden under the earth. However, cultivating and caring for the kwetlal meadows brings beauty to the landscape through a field of delicate flowers—if kwetlal is art, caring for it is an act of creativity. To consider kwetlal as living art, not just as an object of beauty or a site of collective knowledge production but both, reveals more than one assigned value. In acknowledging and celebrating this indeterminacy and what has seemed to be layers of relations, knowledge, and stories, kwetlal is held as a whole, not by its parts.

Cheryl Bryce organizes events to restore the kwetlal meadows in Victoria and educate young Lekwungen individuals and settlers on the significance and history of the kwetlal system. Bryce describes the kwetlal meadows as “...always taken care of. The [meadows] are really living artifacts of my ancestors that require constant interaction.”<sup>48</sup> These restoration efforts bring settlers and Indigenous people together in the community to care for a network that ties together Indigenous resurgence from the past, present and future. This action, an expression of care and togetherness, does not attempt to ignore the colonial political subjectivities that shape the different lived experiences of settlers and Indigenous peoples. Through this process, the affect of the kwetlal’s presence becomes something completely different. While the aesthetic quality of the flower remains the same, these collective acts of stewardship signify the complex relationality that is held by the plant. Suddenly, the fields full of flowers in Beacon Hill Park are no longer simply sites for public recreation or aesthetic appreciation. The land itself, *míqən*, is more than a public park, but a storied place of great meaning

47 Dylan Robinson, “Reparative Interpellation: Public Art’s Indigenous and Non-Human Publics.”

48 Cheryl Bryce, as quoted in Maleea Acker, “Caring for Kwetlal in Meegan,” Focus on Victoria, June 16, 2020, <https://www.focusonvictoria.ca/earthrise/caring-for-kwetlal-in-meegan-r20/>.

for the Lekwungen people. Kwetlal is not just an object for public consumption but is a site for embodied knowledge that has been passed down through generations.

Untangling the city's materiality is part of a project of understanding the past and tending to the future. When the multiple meanings, values, and relationships of kwetlal are made visible, the different histories that tie together the past to the present are made visible as well.<sup>49</sup> In a similar way, when the stories told by Wawadiŕla and the Story Pole are made visible, these structures become more than objects for public consumption. The kwetlal, Wawadiŕla and the Story Pole are all physical manifestations of Indigenous creativity, of embodied knowledge that has been passed down through generations, and of urban Indigenous place-making. Through subverting the curatorial containment of art, practices of joy, community, and knowledge production illuminate the multitudes of histories within the city that have been silenced. Acts of Indigenous care and creation transform the urban landscape to signal Indigenous belonging. Furthermore, when these acts engage with settlers, they reveal different stories of urban Indigeneity that have been silenced in the settler city. A settler living on unceded territories holds certain obligations to the peoples of the land on which they reside. Collective expressions of Indigenous creativity engage settlers to think about these obligations through their body by changing how they perceive the physical landscape. Obligations of care become embodied. This togetherness, this celebration of difference, indeterminacy, and multiplicity, confounds difference, illuminating what is categorically obscured. "Subversive imaginations of collective art practices" disrupt the colonial narrative of the city that simultaneously contains and excludes Indigenous bodies.<sup>50</sup> Indigenous presence in a city is not something that has to be proven by Indigenous peoples. It has always existed, even when rendered invisible. While cities have been curated by the colonial state to control Indigeneity, creative acts of urban Indigenous place-making transform the city, challenging this curatorial containment. The root meaning of the word "curate" however, is actually, to "care for."<sup>51</sup> In this sense, curating the city becomes an intimate and responsive act. Subverting this idea of public Indigenous art illuminates a world where it is Indigenous peoples, not the colonial state, who curate the city.

49 Gayatri Gopinath, "Archive, Affect, and the Everyday," in *Unruly Visions: The Aesthetic Practices of Queer Diaspora* (2018), 125, <https://doi.org/10.1215/9781478002161>.

50 Olivia Casagrande, "Introduction: Ethnographic scenario, emplaced imaginations and a political aesthetic," in *Performing the jumbled city: Subversive aesthetics and anticolonial indigeneity in Santiago de Chile* (Manchester University Press, 2022), 5, [muse.jhu.edu/book/102623](https://muse.jhu.edu/book/102623).

51 Gayatri Gopinath, "Introduction: Archive, Region, Affect, Aesthetics," 4.

## Conclusion

The Canadian city is constructed by defining, sorting, and containing. In Victoria, BC, a city built on Lekwungen territories, Coast Salish visual imagery is naturalized onto the urban landscape, celebrating diversity while obfuscating violence. Through illustrating the dialectical tensions surrounding public Indigenous art, this paper challenges the use of Kwakwaka'wakw structures as public art and invokes the kwetlal system as an alternate form of art to subvert the appropriation and categorical containment of Indigenous symbols. The presence of kwetlal on the urban landscape speaks to both a history of colonial violence and Indigenous resurgence. By caring for the kwetlal system, Lekwungen peoples are in a sense, acting as curators. Urban Indigenous place-making transforms the settler city into a place that signals Indigenous belonging. Collective expressions of Indigenous creativity distort the colonial narrative that forecloses urban Indigenous presence. In subverting the categories that sort and define the physical world, the contradictions and limitations of this colonial story are made apparent, and the affective role of Indigenous presence in the urban landscape no longer upholds colonial continuity. The roots of a new world rest in the shared spaces composed of difference.

## References

- Acker, Maleea. “Caring for Kwetlal in Meegan.” Focus on Victoria, June 16, 2020. <https://www.focusonvictoria.ca/earthrise/caring-for-kwetlal-in-meegan-r20/>.
- Barman, Jean. “Erasing Indigenous Indigeneity in Vancouver.” *BC Studies: The British Columbian Quarterly*, no. 155 (2007): 3–30. <https://doi.org/10.14288/bcs.v0i155.626>.
- Belcourt, Billy-Ray. “Introduction: A Short Theoretical Note.” In *A History of My Brief Body*. Penguin, 2022, 7–10.
- Casagrande, Olivia. “Introduction: Ethnographic Scenario, Emplaced Imaginations and a Political Aesthetic.” In *Performing the Jumbled City*. Manchester University Press, 2022. <https://www.manchestero-penhive.com/display/9781526161888/9781526161888.00008.xml>.
- Collective, The Re-Arrangements, Fabien Cante, Ajmal Hussain, Timo Makori, Surer Qassim Mohamed, Alana Osbourne, Francesca Pilo, et al. “ON URBAN RE-ARRANGEMENTS: A Suite in Five Movements.” *International Journal of Urban and Regional Research* 47, no. 3 (2023): 461–70. <https://doi.org/10.1111/1468-2427.13160>.
- Coulthard, Glen Sean, and Taiaiake Alfred. “INTRODUCTION.: Subjects of Empire.” In *Red Skin, White Masks*, 1–24. Rejecting the Colonial Politics of Recognition. University of Minnesota Press, 2014. <https://www.jstor.org/stable/10.5749/j.ctt9qh3cv.5>.
- Cornthassel, Jeff, and Cheryl Bryce. “Practicing Sustainable Self-Determination: Indigenous Approaches to Cultural Restoration and Revitalization Indigenous Political Actors.” *Brown Journal of World Affairs* 18, no. 2 (2011): 151–66.
- Cowen, Deborah. “Following the Infrastructures of Empire: Notes on Cities, Settler Colonialism, and Method.” *Urban Geography* 41, no. 4 (April 20, 2020): 469–86. <https://doi.org/10.1080/02723638.2019.1677990>.
- Discover Victoria BC, International city of adventure. “Mungo Martin

House - Historical Places of Victoria, B.C.” Accessed April 9, 2023.  
<https://www.victoriabc.ca/historical-buildings/mungo-martin-house/>.

Garneau, David. “Imaginary Spaces of Conciliation and Reconciliation.” In *Arts of Engagement: Taking Aesthetic Action In and Beyond the Truth and Reconciliation Commission of Canada*, edited by Dylan Robinson and Keavy Martin. Winnipeg: Wilfred Laurier University Press, 2016.

Gopinath, Gayatri. “Archive, Affect, and the Everyday,” in *Unruly Visions: The Aesthetic Practices of Queer Diaspora* (2018), 125, <https://doi.org/10.1215/9781478002161>.

Groys, Boris. “Politics of Installation.” *E-Flux Journal*, no. 2 (January 2009).  
<https://www.e-flux.com/journal/02/68504/politics-of-installation/>.

Harris, Cole. “Native Space.” In *Making Native Space Colonialism, Resistance, and Reserves in British Columbia* by Eric Leinberger, 268. Brenda and David McLean Canadian Studies Series. Vancouver, B.C.: UBC Press, 2002. <https://doi.org/10.59962/9780774850230>.

Hill, Gabrielle L’Hirondelle, and Sophie McCall. *The Land We Are : Artists & Writers Unsettle the Politics of Reconciliation*. Edited by Gabrielle L’Hirondelle Hill and Sophie McCall. Winnipeg: ARP Books, 2015.

Hunt, Dallas. “The Place Where the Hearts Gather”: Against Damage-Centered Narratives of Urban Indigeneity,” In *Visions of the Heart: Issues Involving Indigenous Peoples in Canada (5th Ed.)*, edited by Gina Starblanket, Olive Dickason and David Alan Young. Oxford: Oxford University Press, 2020, 94-105.

Jacknis, Ira. “Authenticity and the Mungo Martin House, Victoria, B.C.: Visual and Verbal Sources.” *Arctic Anthropology* 27, no. 2 (1990): 1–12.

Larkin, Brian. “The Politics and Poetics of Infrastructure.” *Annual Review of Anthropology* 42, no. 1 (2013): 327–43. <https://doi.org/10.1146/annurev-anthro-092412-155522>.

Maile, Arvin. “Indigeneity.” In *Native Studies Keywords*, edited by Stephanie Nohelani Teves, Andrea Smith, and Michelle H. Raheja. Tucson: University of Arizona Press, 2015, 119-129.



- Maynard, Robin, and Simpson Betasamosake, Leanne. *Rehearsals for Living*. Toronto: Knopf Canada, 2022.
- McFarlane, Colin. "The City as Assemblage: Dwelling and Urban Space." *Environment and Planning D: Society and Space* 29, no. 4 (August 1, 2011): 649–71. <https://doi.org/10.1068/d4710>.
- National Association of Friendship Centres (NAFC), *Urbanization and Indigenous Peoples in Canada*. Ottawa: NAFC, 2021. <https://nafc.ca/downloads/un-questionnaire-from-the-special-rapporteur-on-the-rights-of-indigenous-peoples-2021.pdf>.
- Nowell, Charles James. *Smoke from Their Fires: The Life of a Kwakiutl Chief*. Prospect Heights, Ill: Waveland Press, Inc., 1996.
- Peters, Evelyn J., and Chris Andersen. *Indigenous in the City: Contemporary Identities and Cultural Innovation*. Vancouver ; UBC Press, 2013.
- Ringuette, Janis. "Camas Country." Accessed April 10, 2023. [https://beaconhillparkhistory.org/articles/120\\_camas\\_country.htm](https://beaconhillparkhistory.org/articles/120_camas_country.htm).
- Robinson, Dylan. "Intergenerational Sense, Intergenerational Responsibility." In *Arts of Engagement: Taking Aesthetic Action In and Beyond the Truth and Reconciliation Commission of Canada*, edited by Dylan Robinson and Keavy Martin. Winnipeg: Wilfred Laurier University Press, 2016.
- "Reparative Interpellation: Public Art's Indigenous and Non-Human Publics." *Journal of Visual Culture* 21, no. 1 (April 1, 2022): 69–84. <https://doi.org/10.1177/14704129221088299>.
- Sen, Arijit, Lisa Silverman, and EBSCOhost. *Making Place: Space and Embodiment in the City*. 21st Century Studies. Bloomington: Indiana University Press, 2014.
- Simpson, Audra, ed. "Ethnographic Refusal: Anthropological Need." In *Mohawk Interruptus: Political Life Across the Borders of Settler States*,. (Duke University Press, 2014.) pp. 95-115 <https://doi.org/10.1215/9780822376781-004>.

Songhees Nation. “Lək̓wəŋən Traditional Territory.” Accessed April 15, 2024. <https://songheesnation.ca/community/l-k-ng-n-traditional-territory>.

Tuck, Eve. “Suspending Damage: A Letter to Communities.” *Harvard Educational Review* 79, no. 3 (September 1, 2009): 409–28. <https://doi.org/10.17763/haer.79.3.n0016675661t3n15>.

*Totem: The Return of the G'psgolox Pole*, 2003. <https://www.youtube.com/watch?v=05C5Ub19exM>.

# The Burden of the Migrant Crisis and Climate Change: *Entrenching Transnational Economic Policy in the European Union*

By Omar Said

## Abstract

The European Union (EU) has bolstered its global influence by implementing a single market with coordinated economic and fiscal policies and a cohesive, impactful free trade approach. The EU machinery of integration locks member states into specific economic policies that, while harbouring immense profit-generating potential, can present challenging policy dilemmas. While the EU has succeeded in lowering emissions within its borders, legislation has done little to fundamentally alter how businesses interact with the environment, elucidating the challenges associated with addressing climate change on a regional rather than global scale. This paper will argue that the EU's inability to reconcile its economic interests with sustainable development has exacerbated environmental degradation in the Global South and amplified the migrant crisis.

## Acknowledgments

I want to acknowledge and thank Dr. Pablo Ouziel and Dr. Keith Cherry, whose engaging and illuminating course material inspired this essay. I sincerely thank Dr. Andrew Wender and Dr. Ouziel for their passionate teaching style and interdisciplinary approach that has inspired a holistic and critical approach to academia and for their continued support, guidance, and friendship. I also thank Simone Rutherford and the rest of the On Politics team for their support and guidance. Lastly, I would like to thank my mother, to whom I owe the world.

## Introduction

The European Union (EU) has bolstered its global influence by implementing a single market with coordinated economic and fiscal policies and a cohesive, impactful free trade approach. While the Union trends towards deregulation, coordinated economic policies adhere to the framework of ordoliberalism—a form of capitalism that advocates for a robust interventionist state.<sup>1</sup> By utilizing an ordoliberal approach to economics, the EU machinery of integration renders itself impregnable to state-level democratic processes to ensure its vision of free trade persists unchallenged. Though capitalism is not necessarily the source of contemporary EU policy challenges, the entrenchment of free trade policy is intimately linked to the EU's environmental and social impacts. This paper argues that the EU's inability to reconcile its economic interests with sustainable development has exacerbated environmental degradation in the Global South and amplified the migrant crisis.

## Environmental Degradation

This section contends that the EU's free trade market strategy, reinforced through ordoliberalism, fosters conditions that promote environmental degradation. Despite EU-implemented policies such as the Emission Trading System (EU ETS) aimed at addressing calls for sustainable development and combating environmental degradation, the EU struggles to achieve its climate objectives within its current economic framework. To better understand EU climate policy dilemmas, this section will comprehensively analyze the competing interests of environmental protection and profit maximization by considering a fundamental critique of capitalist systems.

While capitalism confers immense productive capacities, heightened levels of unequal distribution create a profit motive that often disregards human and environmental consequences. Consequently, the degradation of the environment in pursuit of maximizing business capital becomes inextricably tied to the capitalist endeavour. Capitalism fosters an environment where the natural world is valued only insofar as it can generate monetary profit. Kevin Danaher argues that a capitalist system sees no inherent value in a standing tree—it becomes valuable only once transformed

---

<sup>1</sup> POLI 379 (2 February 2023), Brightspace lecture recording, <https://bright.uvic.ca/d2l/le/content/269362/view-Content/2087336/View>

into a marketable product.<sup>2</sup> Concerning the EU, these principles produce quantifiable effects, including the loss of biodiversity, increased frequency and severity of natural disasters, vital resource loss, and climate change.<sup>3</sup> The implications for climate change are immense, ranging from increasingly severe weather and storm occurrences to reductions in biodiversity and grave endangerment of human health.<sup>4</sup> In response to this reality, the EU has proactively attempted to address climate change. However, instead of confronting aspects of the economic system that have exacerbated these circumstances, the EU has sought to reconcile sustainable development and capitalism through ecological modernization. This strategy aims to integrate economic and environmental objectives within a capitalist framework to mitigate modernity's ecological impact through further development.<sup>5</sup>

The EU's approach to sustainable development aims to marry economic and environmental objectives—two ambitions that, within current policy frameworks, seem extremely difficult to reconcile. Some scholars see the strategy of ecological modernization pursued by the EU merely as symbolic and ineffective at fostering lasting change.<sup>6</sup> The crux of ecological modernization rests in its underlying contradiction with the EU's free trade strategy—persisting consumption within a world of finite resources.<sup>7</sup> Indeed, it has proven highly challenging for the EU to reconcile sustainable development with ecological modernization, as outlined in the Brundtland Report.

Published by the World Commission on Environment and Development in 1987, the Brundtland Report details a path toward sustainable development. A vital tenet of the Brundtland Report is that sustainable development requires curbing excessive consumption in the Global North, as ever-increasing material consumption threatens the natural world. The report argues that “critical global environmental problems [are] primarily the result of the enormous poverty of the South and the non-sustainable

2 Kevin Danaher and Anuradha Mittal, “The Market vs. Nature,” in *10 Reasons to Abolish the IMF and World Bank* (New York, NY: Seven Stories Press, 2006), 2.

3 “State of Europe's environment,” European Environment Agency, <https://www.eea.europa.eu/en/topics/at-a-glance/state-of-europes-environment> (accessed 30 March 2023).

4 Daniel Faber and Christina Schlegel, “Give Me Shelter from the Storm: Framing the Climate Refugee Crisis in the Context of Neoliberal Capitalism,” *Capitalism Nature Socialism* 28, no. 3 (2017): 4, <https://doi.org/10.1080/10455752.2017.1356494>.

5 Susan Baker, “Sustainable Development as Symbolic Commitment: Declaratory Politics and the Seductive Appeal of Ecological Modernisation in the European Union,” *Environmental Politics* 16, no. 2 (2007): 298, <https://doi.org/10.1080/0964401070121187>.

6 *Ibid.*

7 *Ibid.*, 299.

patterns of consumption and production in the North.”<sup>8</sup> While the EU’s sustainable development practices have been remarkably successful at slashing emissions within Europe, outsourcing has hindered global progress. In addition to conducting ecologically hazardous activities and natural resource exploitation in the Global South, EU businesses have induced carbon leakage by shifting production of carbon-intensive industries out of the reach of European carbon restraints through a loophole in one of the EU’s sustainable development approaches—the Emissions Trading System (ETS).<sup>9</sup>

Examining the EU ETS reveals the shortcomings of the EU’s approach to sustainable development. The EU ETS uses a cap-and-trade system to limit greenhouse gas emissions within Europe and creates a carbon market where emissions allowances can be purchased or sold when needed. Introduced in response to the United Nations 1997 Framework Convention on Climate Change Kyoto Protocol, the cap-and-trade system is the EU’s answer to the protocol’s carbon emission targets.<sup>10</sup> Interestingly, the cap-and-trade system has frequently produced the inverse effect, increasing global emissions. More specifically, the EU ETS has inspired some European businesses to outsource carbon-intensive activities to the Global South, leading to carbon leakage.<sup>11</sup> The EU ETS’s inability to lower the carbon footprint of European companies has fostered doubts about the EU’s market-based regulatory approach.<sup>12</sup> In this regard, the pitfalls of the EU ETS illustrate the challenges associated with addressing climate change on a regional rather than global level.

EU policies aimed at reducing carbon emissions have yielded contradictory outcomes. While emissions within EU borders have decreased, much of this progress can be attributed to carbon leakage. The practice of outsourcing carbon-intensive production to the Global South underscores the difficulty of aligning the EU’s sustainable development objectives with its underlying free trade approach. Moreover, in a globalized economy lacking uniformity in policies restricting carbon emissions, efforts to ad-

8 “1987: Brundtland Report,” Federal Office for Spatial Development ARE: Media and Publications, <https://www.aren.admin.ch/are/en/home/media/publications/sustainable-development/brundtland-report.html#:~:text=The%20Brundtland%20Report%20stated%20that,and%20production%20in%20the%20North>. (accessed 7 March 2024)

9 Yda Schreuder, “Unintended Consequences: Climate Change Policy in a Globalizing World,” *Environment & Society* 3 (2012): 103-110, <http://www.jstor.org/stable/43297015>.

10 Ibid., 103.

11 “CLEAR Center: Clarity and Leadership for Environmental Awareness and Research at UC Davis,” <https://clear.ucdavis.edu/news/what-carbon-leakage> (accessed 29 March 2023).

12 Yda Schreuder, “Unintended Consequences: Climate Change Policy in a Globalizing World,” *Environment & Society* 3 (2012): 103-104, <http://www.jstor.org/stable/43297015>.

dress emissions within Europe may shift emissions from one jurisdiction to another. Furthermore, shifting carbon-intensive production to countries with lenient carbon restraints allows businesses to pollute more than they used to within Europe before the implementation of the EU ETS. One of the most salient geopolitical consequences of a globally disjointed approach to sustainable development is the migrant crisis.

## The Migrant Crisis

This section examines how the EU's economic and policy approach exacerbates the migrant crisis. By entrenching a free trade market approach that prioritizes profit and innovation, it's hardly surprising that businesses have discovered and exploited loopholes in policy that allow for the export of carbon-intensive activities abroad. These loopholes in EU policy have indirectly created carbon leakage vis-à-vis increased carbon emissions within the Global South. This increase in emissions has augmented the speed at which Global South environments become inhospitable, intensifying localized climate refugee crises. This section analyzes scholarly research that outlines specific processes involved in creating climate refugees and borrows from Karl Marx's critique of capitalism to elucidate the forces that drive negative sentiment toward migrants.

European businesses exporting carbon-intensive activities to the Global South exacerbate the ongoing migrant crisis by contributing to environmental degradation.<sup>13</sup> Carbon-intensive activities and practices imposed on Global South communities render them increasingly vulnerable to climate change and extreme weather events. Environmental destabilization hinders community resilience and increases the rate at which inhospitable environments trigger environmental refugees.<sup>14</sup> Environmental refugees are triggered by disaster (unintended catastrophic event), expropriation (willful destruction of the environment), or deterioration (compelled migration due to incremental degradation).<sup>15</sup> The exacerbation of climate crises driven by the capital interests of Global North businesses has led Faber and Schlegel to liken "climate refugees" to "neoliberal ref-

---

13 Daniel Faber and Christina Schlegel, "Give Me Shelter from the Storm: Framing the Climate Refugee Crisis in the Context of Neoliberal Capitalism," *Capitalism Nature Socialism* 28, no. 3 (2017): 2, <https://doi.org/10.1080/10455752.2017.1356494>.

14 Daniel Faber and Christina Schlegel, "Give Me Shelter from the Storm: Framing the Climate Refugee Crisis in the Context of Neoliberal Capitalism," *Capitalism Nature Socialism* 28, no. 3 (2017): 1, <https://doi.org/10.1080/10455752.2017.1356494>.

15 Diane Bates, "Environmental Refugees? Classifying Human Migrations Caused by Environmental Change," *Population and Environment* 23, no. 5 (2002): 470, <http://www.jstor.org/stable/27503806>.

ugees.”<sup>16</sup> As outlined by the Norwegian Refugee Council’s International Displacement Monitoring Center, as well as the United Nations Office for the Coordination of Humanitarian Affairs, environmental hazards and/or catastrophes worsened by climate change created 20 million refugees in 2008 alone—a figure likely surpassing that of war and persecution combined, according to Faber and Schlegel.<sup>17</sup> This trend has continued in 2023, with approximately 56% of the 46.9 million new internal displacements triggered by environmental disasters.<sup>18</sup>

While EU policies have successfully reduced emissions within Europe, flawed legislation does little to fundamentally change how businesses interact with the environment. Capitalist societies have generated climate refugees through four principal processes. First, capitalism intensifies the frequency and severity of climate-related disasters, which is evident in the increase in carbon emissions due to carbon leakage.<sup>19</sup> Second, it renders Global South communities less resilient to climate catastrophes due to increased social and ecological impoverishment. Third, corporate-led globalization devastates environmental habitats in the Global South, diminishing ecosystem resilience. Fourth and finally, climate change displaces migrants by forcing them into urban areas where they labour for consumer goods exported to the global market.<sup>20</sup>

In Syria, climate change forced millions into urban areas and acted as a catalyst for violent conflict. The ongoing Syrian refugee crisis began in 2011 following the Syrian government’s violent repression of public demonstrations that rapidly precipitated a civil war.<sup>21</sup> As of March 2023, 15.3 million Syrians require humanitarian assistance—70% of Syria’s population.<sup>22</sup> One of the root causes of the socio-political instability that created the Syrian refugee crisis was human-caused climate change. While

16 Daniel Faber and Christina Schlegel, “Give Me Shelter from the Storm: Framing the Climate Refugee Crisis in the Context of Neoliberal Capitalism,” *Capitalism Nature Socialism* 28, no. 3 (2017): 2, <https://doi.org/10.1080/10455752.2017.1356494>.

17 Daniel Faber and Christina Schlegel, “Give Me Shelter from the Storm: Framing the Climate Refugee Crisis in the Context of Neoliberal Capitalism,” *Capitalism Nature Socialism* 28, no. 3 (2017): 4, <https://doi.org/10.1080/10455752.2017.1356494>.

18 “Environmental Migration,” Migration Data Portal: The bigger picture, [https://www.migrationdataportal.org/themes/environmental\\_migration\\_and\\_statistics](https://www.migrationdataportal.org/themes/environmental_migration_and_statistics) (accessed 10 March 2024).

19 Daniel Faber and Christina Schlegel, “Give Me Shelter from the Storm: Framing the Climate Refugee Crisis in the Context of Neoliberal Capitalism,” *Capitalism Nature Socialism* 28, no. 3 (2017): 4-7, <https://doi.org/10.1080/10455752.2017.1356494>.

20 Ibid.

21 “Syria Refugee Crisis Explained,” USA for UNHCR: The UN Refugee Agency, <https://www.unrefugees.org/news/syria-refugee-crisis-explained/#:~:text=The%20Syrian%20refugee%20crisis%20began,the%20southern%20town%20of%20Daraa> (accessed 10 March 2024).

22 Ibid.



many areas in the Middle East's Levant region experience drought cycles, that which affected Syria in 2006 was unique. Scholars suggest that human-caused climate change immensely exacerbated the intensity of the drought.<sup>23</sup> Beginning in 2006, the severity of the drought drove 2-3 million Syrians into extreme poverty, creating water scarcity, food insecurity, and loss of livelihood. The ensuing waves of migrants moving from rural agricultural land to urban areas created issues in accessing housing, food, and nutrition, leading to widespread instability.<sup>24</sup> The Syrian government's seeming unwillingness to develop practical solutions to address social and economic instability led to political volatility that helped precipitate the ensuing civil war and migrant crisis.<sup>25</sup> Indeed, climate-related environmental crises are causing many to seek refuge in Europe, where capitalist-permeated culture remains hostile towards immigrants.

While his ideologies are undoubtedly flawed, analyzing Karl Marx's critique of capitalism provides persuasive insights into the motivations for European xenophobia. Marx fundamentally criticized capitalism, arguing that pursuing capital at the expense of human or ecological considerations renders it inherently dehumanizing.<sup>26</sup> According to Keith Faulks, this dehumanization creates extreme competition and alienation, thus blinding people to the suffering of others.<sup>27</sup> In the twenty-first century, this critique provides compelling insights into the dehumanization of refugees. Marx argues that a capitalist conception of human interaction is transactional and driven by contractual terms, emphasizing materialism, selfishness, and monetary value rather than cooperation, morality, and civic responsibility.<sup>28</sup> The implications of Marx's conception of capitalism for immigration in the EU are evident. In societies with widespread disdain for immigrants due to their perceived lack of "value," Marx's hypothesis is increasingly relevant. Xenophobia in capitalist societies manifests as a sort of perversion of one's conception of the "other" in terms of structures of power. This troubling conception of migrants is especially problematic within the EU, as European values purport to safeguard the dignified treatment of migrants, most of whom help fill labour and talent shortages. Although migrants

23 "Syrian Civil War: The Role of Climate Change," Climate Diplomacy: Middle East and North Africa, <https://climate-diplomacy.org/case-studies/syrian-civil-war-role-climate-change> (accessed 11 March 2024).

24 Sowers, Jeannie, John Waterbury and Eckart Woertz, "Did Drought Trigger The Crisis In Syria?" Footnote, September 12, 2013.

25 Ibid.

26 Keith Faulks, "Capitalism," Edited by Georgina Blakeley and Valerie Bryson. *Marx and Other Four-Letter Words*, (2005): 28, <https://doi.org/10.2307/j.ctt18fsbp5.6>.

27 Ibid.

28 Daniel Faber and Christina Schlegel, "Give Me Shelter from the Storm: Framing the Climate Refugee Crisis in the Context of Neoliberal Capitalism," *Capitalism Nature Socialism* 28, no. 3 (2017): 6, <https://doi.org/10.1080/10455752.2017.1356494>.

present opportunities to the labour forces of their new European communities, xenophobia driven by the prioritization of capital still plagues many European societies.<sup>29</sup>

EU policies have allowed European businesses to engage in practices that exacerbate climate catastrophes, undermine the resilience of Global South communities, and worsen migrant crises. A Marxist critique of capitalism highlights its propensity to breed xenophobic societies, a phenomenon increasingly problematic for European societies that benefit economically from migrants filling shortages in labour and talent markets.

## Conclusion

The EU's inability to create policies that effectively address climate change by reconciling its economic interests with sustainable development has worsened the migrant crisis by intensifying environmental degradation in the Global South. The EU's integration project amalgamates participating states, unifying them under a single market with coordinated economic and fiscal policies. While this strategy confers a plethora of benefits for member states, it also poses a significant risk—augmenting the risk associated with free trade economics with the help of a larger political body. This has facilitated the increased exploitation of resources and human labour in and from the Global South while simultaneously furthering the growth of xenophobia within Europe. Policies aimed at reducing carbon emissions in the EU have produced carbon leakage, worsened the migrant crisis, and highlighted the challenges associated with addressing climate change on a regional rather than global scale.

While scholars like Susan Baker argue that the EU's symbolic attempts at sustainable development are empty rhetoric, these symbolic developments harbour transformative potential.<sup>30</sup> It is essential to note that while the EU's climate policy approach has struggled to mirror emission reductions within Europe on a global scale, symbolic gestures can act as catalysts of change. Moreover, recent policy developments may help realize the EU's climate goals; the Carbon Border Adjustment Mechanism (CBAM) aims to address carbon leakage by imposing a tariff on carbon-intensive products manufactured outside the EU. Revisiting the challenges associated with

<sup>29</sup> Daniel Boffey, "Pervasive and relentless racism on the rise in Europe, survey finds," *The Guardian*, October 25, 2023, Europe section.

<sup>30</sup> Susan Baker, "Sustainable Development as Symbolic Commitment: Declaratory Politics and the Seductive Appeal of Ecological Modernisation in the European Union," *Environmental Politics* 16, no. 2 (2007): 313, <https://doi.org/10.1080/0964401070121187>.

carbon leakage after the full implementation of CBAM in 2026 will provide further insights into the efficacy of the EU's policy approach to sustainable development.

While a close examination of the evidence can provide a working description of this complex topic, further research beyond the bounds of this short paper is needed. Additional insights regarding the link between a globalized economy and regional and global carbon constraints would provide a more precise understanding of policy challenges. Lastly, incorporating the efficacy of EU CBAM once data is available will prove invaluable to the analysis of the EU's policy approach.

## References

- Baker, Susan. "Sustainable Development as Symbolic Commitment: Declaratory Politics and the Seductive Appeal of Ecological Modernisation in the European Union." *Environmental Politics* 16, no. 2 (2007): 297–317. <https://doi.org/10.1080/09644010701211874>.
- Bates, Diane C. "Environmental Refugees? Classifying Human Migrations Caused by Environmental Change." *Population and Environment* 23, no. 5 (2002): 465–77. <http://www.jstor.org/stable/27503806>.
- Boffey, Daniel. "Pervasive and relentless racism on the rise in Europe, survey finds." *The Guardian*, October 25, 2023. Europe section.
- "CLEAR Center: Clarity and Leadership for Environmental Awareness and Research at UC Davis." <https://clear.ucdavis.edu/news/what-carbon-leakage> (accessed 29 March 2023).
- Danaher, Kevin, and Anuradha Mittal. "The Market vs. Nature." In *10 Reasons to Abolish the IMF and World Bank*. New York, NY: Seven Stories Press, 2006.
- "Environmental Migration." Migration Data Portal: The bigger picture. [https://www.migrationdataportal.org/themes/environmental\\_migration\\_and\\_statistics](https://www.migrationdataportal.org/themes/environmental_migration_and_statistics) (accessed 10 March 2024).
- Faber, Daniel, and Christina Schlegel. "Give Me Shelter from the Storm: Framing the Climate Refugee Crisis in the Context of Neoliberal Cap-

italism.” *Capitalism Nature Socialism* 28, no. 3 (2017): 1–17. <https://doi.org/10.1080/10455752.2017.1356494>.

Faulks, Keith. “Capitalism.” In *Marx and Other Four-Letter Words*, edited by Georgina Blakeley and Valerie Bryson, 28–45. Pluto Press, 2005. <https://doi.org/10.2307/j.ctt18fsbp5.6>.

Gill, Stephen. “European Governance and New Constitutionalism: Economic and Monetary Union and Alternatives to Disciplinary Neoliberalism in Europe.” *New Political Economy* 3, no. 1 (1998): 5–26. <https://doi.org/10.1080/13563469808406330>.

Khair, Tabish. “Capital and the New Xenophobia.” *Economic and Political Weekly* 50, no. 46/47 (2015): 44–49. <http://www.jstor.org/stable/44002864>.

POLI 379 (2 February 2023). Brightspace lecture recording, <https://bright.uvic.ca/d2l/le/content/269362/viewContent/2087336/View>

Schreuder, Yda. “Unintended Consequences: Climate Change Policy in a Globalizing World.” *Environment & Society* 3 (2012): 103–22. <http://www.jstor.org/stable/43297015>.

Sowers, Jeannie, John Waterbury and Eckart Woertz. “Did Drought Trigger the Crisis in Syria?” Footnote, September 12, 2013.

“State of Europe’s environment.” European Environment Agency. <https://www.eea.europa.eu/en/topics/at-a-glance/state-of-europes-environment> (accessed 27 March 2023).

“Syrian Civil War: The Role of Climate Change.” Climate Diplomacy: Middle East and North Africa. <https://climate-diplomacy.org/case-studies/syrian-civil-war-role-climate-change> (accessed 4 March 2024).

“Syria Refugee Crisis Explained.” USA for UNHCR: The UN Refugee Agency. <https://www.unrefugees.org/news/syria-refugee-crisis-explained/#:~:text=The%20Syrian%20refugee%20crisis%20began,the%20southern%20town%20of%20Daraa> (accessed 4 March 2024).

“1987: Brundtland Report.” Federal Office for Spatial Development ARE Media and Publications. <https://www.are.admin.ch/are/en/home/media/publications/sustainable-development/brundtland-report.html#:~:text=The%20Brundtland%20Report%20stated%20that,and%20production%20in%20the%20North> (accessed 7 March 2024).