

**DIFFERENTIAL LAW ENFORCEMENT PRACTICES TO INDIGENOUS RIGHTS
DISPUTES AND PROTESTS**

By

Megan Flegel

Under the supervision of

Dr. Harpreet Aulakh

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Land Acknowledgement

I, as a settler in Canada, want to acknowledge and honour that we are on Treaty 7 Territory in Southern Alberta. I recognize that we are privileged to live, work, and learn on Indigenous territory that was once and is still, riddled with settler colonial ideals. I offer my gratitude to the Indigenous Peoples of Canada for honouring this land and am committed to acknowledging and passing on the invaluable knowledge taught by Indigenous communities and people across Canada.

Abstract

Colonial practices and violence have long been an issue for the Indigenous Peoples of Canada. Particularly, the Canadian government and law enforcement have had ongoing problematic and forceful practices employed toward Indigenous Peoples and their rightful land and territories pertaining to the government's desire to advance the Canadian economy. Extensive research has been conducted concerning Canada's law enforcement practices toward Indigenous Peoples and how these practices have enabled neo-colonialism in Canada. Furthering on this theoretical paradigm, the research presented on the Wet'suwet'en protests and the Freedom Convoy is used to demonstrate neo-colonial and systemic racism enabled by law enforcement and the Canadian government. Using a case study design approach and a semi-systematic literature review, the findings highlight that law enforcement practices towards Indigenous Peoples in the Wet'suwet'en protests are highly reminiscent of racism and systemic discrimination and very evidently disparate from law enforcement practices seen with the Freedom Convoy, which primarily consisted of white, privileged Canadian citizens. The protests highlighted ongoing tensions between Indigenous land rights and the Canadian government and the need for greater communication between the two to address other underlying issues. The main findings point to the need for indigenization, reconciliation, and decolonization, as well as the need for Canada to work towards equality for Indigenous Peoples.

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Differential Law Enforcement Responses to Indigenous Rights Disputes and Protests

Indigenous protests in Canada have, all at once, brought the many issues of land rights, treaty obligations, and the ever-lasting legacy of colonialism to the forefront of national conversations in Canada, forcing Canadians to confront their history and role in enabling Indigenous oppression. According to deprivation theory, Indigenous groups who experience deprivation, both relative and absolute, have nothing to lose and everything to gain by engaging in contentious action, designed to challenge the existing power structure (Repin, 2012, pg. 143). In an examination of a multitude of past or historic Indigenous protests in Canada, it is no secret that Indigenous communities and people continue to be the victims of the deprivation of their rights and land, and of the ever-lasting forces of neocolonialism and control methods imposed by the law, degree of police enforcement, and governmental controls. With further analysis, it has become evident that Indigenous protests and protests that are composed of predominantly privileged groups have experienced drastically different treatment from law enforcement, police, and government agencies when it comes to fighting for their rights.

The approach that these forces take toward Indigenous groups and protests continues to undermine the presence and rights of Indigenous groups and communities and instead advances colonialism that Indigenous people experience in Canada along with contributing to the existing issues of systemic racism. Indigenous people continue to have to protest for many issues in relation to their identity as Indigenous people: territorial rights, Indigenous governance and law, cultural practices, and even simply their rights as human beings. Eisenberg (2022) explains, one of the leading features of colonialism is the imposition on a given territory and people a framework for what constitutes authority that renders pre-

existing governing practices and legal orders unrecognizable as features of legitimate law and governance (pg. 40). Eisenberg continues to explain that, as a result of this, colonialism also renders Indigenous law and governing practices invisible.

The primary purpose of this project is to bring awareness and display evidence about the many injustices that Indigenous communities and people continue to face in today's world and to dispel the misconception that the colonial problems that severely affected Indigenous peoples in the past have been resolved or have been phased out. Through analysis of past protests, this paper will cover the differing and discriminatory practices towards Indigenous people who have protested for their rights in Canada and examine how, in a broader picture, these systemically discriminatory practices have contributed to enabling neo-colonialism and white prejudice in present-day Canadian society.

Research Question

The research question being explored in this study is, how do law enforcement practices demonstrate the ongoing enablement of neo-colonialism for Indigenous communities and people in Canada? In order to truly move towards decolonization, reconciliation, and the reconstruction of other government policies such as the education system and the criminal justice system, it is important to bring awareness to Canadian society about recent demonstrations of neo-colonial practices from law enforcement in conjunction with government action. This research is significant in the way that it provides evidence of Indigenous people and communities continuing to experience forms of colonization and discrimination through present-day neo-colonial practices at a time when the Canadian government has allegedly claimed to have made efforts toward decolonization.

Methodology

This project examines the differential law enforcement treatment between the protests of the Freedom Convoy of 2022 in downtown Ottawa and Coutts border in Alberta versus the treatment of the Indigenous Wet'suwet'en protest over the Coastal GasLink Pipeline on Wet'suwet'en land. This project uses a case study approach with the examination of media reports, legislation, earlier scholarly research, and other literature and is beneficial in the way that this research highlights the differing treatment between protests, mainly the Freedom Convoy and the Wet'suwet'en protests, by examining data and identifying differing trends and patterns that point to discriminatory practices towards Indigenous people and protestors. This particular study will primarily look at the cases of the Wet'suwet'en coastal pipeline protests of 2019 versus the Freedom Convoy protests of 2022 along with other supporting Indigenous rights disputes.

This project incorporates scholarly articles, books, and peer-reviewed journals to develop an understanding of differential law enforcement practices and actions to Indigenous rights disputes and protests through sites such as google scholar and the Mount Royal University library. To acquire the data, keywords pertaining to the topic that are discussed in this project such as "Indigenous rights", "law enforcement", "police", "protests", "disputes" resulted in a diversified selection of literature surrounding the topic and research question.

Limitations

The scope of this study compared only a small selection of Indigenous rights disputes and protests from Canada focusing mainly on the Wet'suwet'en pipeline protests of 2019 vs the Freedom Convoy of 2022, potentially leaving out other outcomes or issues from other

protests or disputes. The purpose of this project was to examine and demonstrate evidence of systemic discrimination and neocolonialism when comparing different kinds of protests and disputes and not to completely conclude a causal relationship, therefore allowing for the possibility of other interpretations or analyses. Primary/in-depth historical analysis is limited because this is an undergraduate project for Mount Royal University's Criminal Justice Honours Program and approximately eight months is given to complete this project, therefore limiting time to further explore the topic.

Neo-colonialism as a Theoretical Approach

A neo-colonial theoretical approach is used to attempt to understand and explain how the practices and actions of Canada's government and law enforcement continue to enable systemic discrimination and past colonial behaviours towards Indigenous groups and people.

Monchalin (2016) describes neocolonialism as "a method of postmodern colonization in which domination is still based on settler rules and priorities but settlers calculate and perform more indirect or crafty ways of achieving their goals" (pg. 109). Monchalin also adds to this definition that "legacies of earlier forms of colonialism have become entrenched and embedded within society's dominant discourses and institutions," and "include governmental, educational, political and religious institutions, among others" (pg. 109).

There is a common misconception among Canadians that colonialism no longer exists in Canada, or that its impacts have phased out and that Canada has reconciled with Indigenous communities and people after hundreds of years of tyranny and oppression. This discourse is heavily related to Canada's Truth and Reconciliation Commission (TRC) as well as decolonization "efforts" made by the Canadian government. TRC and decolonization

should involve a range of initiatives including policy changes, rights, education, and healing. However, Canada has yet to demonstrate a solid capability to do so and to truly recognize the harms of past colonialism. Harper, former prime minister of Canada, readily stated this in a Pittsburgh G20 meeting in 2009:

We are one of the most stable regimes in history. **We also have no history of colonialism.** So, we have all of the things that many people admire about the great powers but none of the things that threaten or bother them...

Yes, perhaps the way in which colonialism happened in the past no longer presents itself as it did in the past, but it is far from the truth to state that it does not exist today. Instead, it is presented through other systemic and structural means. As Lacchin (2015) explains, this neo-colonial relationship is most evident in the failure of the federal government to uphold its fiduciary duty to respect the rights and sovereignty of its wards and to protect the traditional lands held in “trust” for the Indigenous population. Lacchin also adds that instead of investing Indigenous leaders with true political and economic control over “Indian” affairs, the federal government has kept Indigenous communities in a state of political dependency and economic underdevelopment (pg. 2).

Popular Canadian histories celebrate the creation of Canada as a safe haven for immigrants with vast “untouched” wilderness and still resonate with much of the Canadian public (Logan, 2015, pg. 433). Logan continues to explain that these narratives of Canadian history give a false, benevolent impression of the measures taken to create and maintain Canada as a nation-state. However, until they grapple with genocide, particularly settler

colonial genocides, Canadian histories are incomplete and under-represent Indigenous removal in Canadian history (Logan, 2015).

Colonialism and Indigenous People in Canada

In Canada, colonialism is commonly understood or described as the erasure of Indigenous people's culture, stripping of land, forced disconnect from family and friends and attempted assimilation into the settler colonizer way of life. It meant extreme unequal power relations between newly settled Europeans and the Indigenous groups on Canadian land.

The Indigenous people of Canada had never given up their sovereignty. In Canada's colonial history with Indigenous groups and people, Monchalin (2016) explains that Europeans ultimately pushed their priorities and goals forward which involved achieving power in North America, and they did so in such a way that bypassed many of previously promised Indigenous treaties and rights. As Europeans continued to colonize Turtle Island, numerous Indigenous nations never received any type of compensation for being dispossessed of rights in their original homelands (Monchalin, 2016).

The Royal Proclamation & The Treaty of Niagara in relation to Wet'suwet'en

To add dimension and to further understand the power dynamic between law enforcement, the Canadian government, and Indigenous communities' land and treaty rights, it is appropriate to give a brief overview of the very document that set out the guidelines for European settlements of Indigenous territories in Canada. This further demonstrates how neo-colonialism has manifested itself in the ways that law enforcement has proceeded with

Indigenous protests today and expands on the Wet'suwet'en unceded territory in British Columbia.

According to the University of British Columbia's Indigenous Foundations (n.d.) *b*, the Royal Proclamation was initially issued by King George III in 1763 to officially claim British territory in North America after Britain won the Seven Years War. The Royal Proclamation explicitly states that Indigenous title has existed and continues to exist, and that all land would be considered Indigenous land until ceded by treaty (University of British Columbia's Indigenous Foundation, n.d.). In close relationship to the Royal Proclamation, the Treaty of Niagara was essentially a meeting that led to the acceptance of the Royal Proclamation of 1763 and was recorded in wampum. Wampum belts are traditional belts made of beads and shells that are used by Indigenous people to signify ceremonial, diplomatic, and commercial services, among other things. Monchalin (2016) explains that the understanding of the Proclamation that takes into consideration the agreements made at Niagara, including the synchronous speeches and physical symbols, therefore includes the recognition of Indigenous sovereignty. She adds that it requires an acknowledgement of two related facts: an alliance between Britain and Indigenous nations and sovereignty. These two things require the Crown to seek Indigenous consent for settlement on Indigenous land (Monchalin, 2016).

The recognition of the Royal Proclamation and the Treaty of Niagara is of relevant and great importance due to the unceded territory conflict of Wet'suwet'en and the protests that have ensued for this reason. Over 20 years ago, the Supreme Court of Canada ruled in its landmark case of *Delgamuukw v. British Columbia, 1997* that Canada did not and had never extinguished title to the land itself (Woodside, 2021). Therefore, the land is unceded.

Woodside further explains that since the land is unceded, it is crucial to understand the Wet'suwet'en as a sovereign nation that never gave up its self-determination. Gavin Smith, a West Coast Environmental Law lawyer further elaborates in Woodside's article on Wet'suwet'en law:

When we look at what's happening with Coastal GasLink, in my view, the conflict is largely resulting from the long-term failure of the Crown, both British Columbia and Canada, to give meaningful, practical recognition to the promise of recognition for title and rights of Indigenous peoples of the Wet'suwet'en. (para. 19)

In important respects, Woodside (2021) explains how, for years after the Delgamuukw decision, the Crown argued that title to land referred to things such as fishing holes and other distinct uses rather than the entire territory itself. However, Woodside iterates how that argument had been dispelled in Canada's Supreme Court case of *Tsilhqot'in Nation v British Columbia* which found that title extends to a nation's entire territory.

The recognition of Wet'suwet'en as unceded territory by the most powerful and highest judicial authority in Canada which serves as the ultimate application of Canadian law should, by nature, therefore offer clear legal standing on how law enforcement and the Canadian government should proceed with land right and territory conflicts. Despite these significant rulings by the Supreme Court and evident recognition of Indigenous sovereignty and order on Wet'suwet'en territory, RCMP and the Canadian Government nevertheless applied unlawful force on Indigenous territory and Peoples during the protests against the Coastal GasLink pipeline. The question remains as to why precedent law had been ignored and devalued. All signs point to Canada's neo-colonialist ways of imposing control over

Indigenous land and affairs to benefit themselves and leaving Indigenous voice, law, culture and desires to the side, as is reminiscent of historic ways of colonialism in Canada.

Systemic Discrimination & Neo-colonialism

According to Gelber (2019), systemic discrimination is “best understood as pervasive, institutionalized exclusion presenting in patterns and practices that are perpetuated in and through, ostensibly neutral institutional principles” (pg. 406). In Ontario Human Rights Commission’s (n.d.) words, it can also be described as “patterns of behaviour, policies or practices that are part of the structures of an organization, and which create or perpetuate disadvantage for racialized persons” (para. 2).

Monchalin (2016) explains that scholarship on contemporary colonialism has parallels within the academic literature on systemic racism, which experts define as the broad “laws, rules and norms woven into the social system that result in an unequal distribution of economic, political, and social resources and rewards among various racial groups” (Henry et al., 2000, as cited in Monchalin, 2016, Pg. 110). She further explains that systemic racism rejects the idea that certain racial groups should have equity, for example, equal access to and involvement in services such as housing, education, and employment, among other things. Canada’s Indian Act is one of the most notable demonstrations of Canada’s neo-colonialism and systemic discrimination. Monchalin (2016) explains that the result of the Indian Act is that the federal government allocates less to Indigenous communities for many things such as water, housing, and education than do the provincial, territorial, and municipal governments responsible for funding these things in non-Indigenous communities (pp. 110-11).

Discrimination against Indigenous Peoples is deeply entrenched in every kind of system in Canada and has been for centuries. The systems put in place were designed to benefit white colonists while disadvantaging the Indigenous populations who had lived here prior to settlers, and this power dynamic continues to be upheld and reinforced in Canada's society today (The University of British Columbia, 2021). These systems in past history include the 60's scoop, which was the mass removal of Indigenous children from their families who were then thrown with no regard into the child welfare system, the residential school system where Indigenous children were forcibly put into schools to assimilate them into Euro-Canadian and Christian ways of living, and the killing of Inuit sled dogs, among many other systemically discriminatory acts. The role of the RCMP during the period of the Residential Schools, the 60's Scoop of removing Indigenous children into foster/adoptive care and the killing of sled dogs in Nunavik, to name a few examples, has, over time eroded trust and placed police as authority figures to fear and avoid ("Royal Canadian Mounted Police Path of Reconciliation," 2021). The long-standing history of systemic discrimination and racism in Canada against Indigenous peoples and communities has widely contributed to their mistrust of law enforcement and government policies. The dispute between law enforcement and Indigenous Peoples during the Wet'suwet'en protests is evidently backed by hundreds of years of police mistrust and mistreatment towards Indigenous Peoples.

Overrepresentation of Indigenous Peoples in the Justice System

Failures of the criminal justice system for Indigenous Peoples are manifested in many ways, perhaps most notably in the extreme overrepresentation of Indigenous individuals as incarcerated offenders (Clark, 2019). In relevance to law enforcement mistrust among

Indigenous Peoples in Canada, the prevalence of racism and overrepresentation in Canada's Criminal Justice System is another blatant example of systemic discrimination that heavily connects law enforcement practices to neo-colonialism. The main causes of overrepresentation, according to Clark, include colonialism and systemic discrimination. The Supreme Court of Canada noted evidence of systematic discrimination in *R. v. Gladue* at paragraph 61:

Not surprisingly, the excessive imprisonment of Aboriginal people is only the tip of the iceberg insofar as the estrangement of the Aboriginal peoples from the Canadian criminal justice system is concerned. Aboriginal people are overrepresented in virtually all aspects of the system. As this Court recently noted in *R. v. Williams*, [1998] 1 S.C.R. 1128, at para. 58, there is widespread bias against Aboriginal people within Canada, and "[t]here is evidence that this widespread racism has translated into systemic discrimination in the criminal justice system."

Clark (2019) adds that further examples of colonialism in the present are seen in the government's reluctance to honour the conditions set out in treaties between Indigenous Peoples and the federal government, as emphasized by the Royal Commission on Aboriginal Peoples 1996. Clark further states that many specific claims such as claims to land and other promised benefits remain unresolved by the federal government. He explains that this is a concern to many First Nations and regional First Nation governments and organizations and is identified as an ongoing problem with the federal government and is a contributor to the ongoing marginalization of Indigenous peoples (pg. 14). These examples given by Clark are highly reminiscent of the problems seen on Wet'suwet'en territory where the Canadian

government continues to neglect the needs and rights of Indigenous people and fails to uphold any sort of promised Indigenous sovereignty as a way of neo-colonial control.

Battiste (2018) explains that systemic discrimination dominates political and policymaking spheres, creating these massive discriminations against Indigenous persons. She continues to explain that systemic discrimination operates through inaction, silence, neglect, and indifference to the Indigenous person, human, and treaty rights, stifling the talents and opportunities of individuals while sustaining poverty and malaise affecting social, cultural, political, economic, and physical outcomes among Indigenous peoples (para. 1). It is clear that neo-colonialism and systemic discrimination are highly similar in the case of Indigenous peoples in Canada and together, the two concepts empower and facilitate one another and contribute to the ways in which law enforcement acts against Indigenous communities and people. Both are clear tools of neo-colonial control and work simultaneously to undermine Indigenous rights and validate the abuse that Indigenous people experience in the face of law enforcement, as seen in the Wet'suwet'en protests.

Colonial Policies in Canada and Their Impact on Indigenous Peoples

During the past several years, self-government has emerged as a pivotal concern in the quest by Canada's Indigenous peoples for a redefined role within Confederation (Long et al., 1982). Long et al. (1982)) continue to explain that for Indigenous peoples, self-government is inextricably linked to the achievement of self-determination and the preservation of the Indigenous cultural heritage.

In Long et al.'s (1982) article on Federal 'Indian' Policy and Self-Government, they state that a brief survey of Canadian Indigenous policy indicates that the current policy thrust

toward increased self-government for Indigenous people represents an attempt to break away from the policy paradigm that had dominated the federal government's relationships with Indigenous peoples since the beginning of the Canadian confederation. This paradigm can best be described as internal colonialism, whereby the greater part of Canada's Indigenous people have been given separate legal status by virtue of an Indian Act, have been subject to special legislative programs, and have been settled on specific land areas known as reserves (Boldt, 1981, as cited in Long et al., 1982, pg. 190).

According to the University of British Columbia's Indigenous Foundations (n.d.) *a*, Canada and Indigenous peoples continue to struggle with a history of legislation and policy designed to terminate Indigenous culture and social distinctiveness in order to assimilate Indigenous peoples into colonial life and values. Indigenous people have consistently responded to and actively resisted government policies and in some instances, the resistance has managed to affect and shame some policies (University of British Columbia's Indigenous Foundations, n.d.). The Foundation continues to explain that regardless, the colonial origins of Indigenous policy and legislation continue to inform the relationship between the Canadian government and Indigenous peoples and the contemporary social realities of Indigenous people in Canada.

The Wet'suwet'en Protests

Three particular companies called Chevron, TransCanada and Enbridge, had proposed pipelines through Wet'Suwet'en territory, all three of which were working without consent (Shah, n.d.). Shah explains that the three proposed pipelines are the Coastal GasLinks, Pacific Trail and Northern Gateway Pipelines. It is vital to note how Shah writes that these

pipelines are a complete violation of Wet'suwet'en sovereignty and put both the land and women of the Wet'suwet'en nation at risk. The Wet'suwet'en and Gitksan people have been taking action to protect their land with support from allies, successfully delaying pipeline projects, increasing their costs, and seeking to prevent these projects entirely (Shah, n.d.). Shah also explains how the government's response to this land defence has also violated the rights of the Wet'suwet'en and Gitksan by forcibly removing Indigenous peoples from their lands and not respecting their rights to self-governance.

For the first three months of 2020, headlines in Canada were dominated by reports of protests in northern British Columbia by members of the Wet'suwet'en First Nation who blockaded a road on their traditional territory (Eisenberg, 2021). The Wet'suwet'en protests had been ongoing for close to 10 years due to the potential imposing of a pipeline through traditional territories. Eisenberg continues to explain that the conflict escalated as construction was set to begin, and the Coastal GasLink successfully negotiated an agreement with five out of six elected band councils of the Wet'suwet'en First Nation. However, 8 out of 13 Wet'suwet'en hereditary chiefs opposed the project, and this split between the hereditary chiefs and the elected band councils became the primary focus of a debate that ensued about who has the authority to approve the pipeline (Eisenberg, 2021).

Members of the Wet'suwet'en Nation and the Unist'ot'en Clan set up camp on the GPS coordinates of the pipeline route as a way to impede the construction of any pipelines from crossing their territory, which is occupied and un-ceded as the tribe has never signed a treaty with the Government of Canada (Temper, 2019, pg. 94). The Wet'suwet'en protests are demonstrative of a historic and long-standing fight between Indigenous Peoples, their right to self-determination, territorial rights and the Canadian Government. Further, this

standoff between the Canadian state and members of the Wet'suwet'en community also points to a tension at the heart of struggles over decolonization today about who has legitimate authority over land development and infrastructure projects on the traditional territories of Indigenous peoples (Eisenberg, 2022, pg. 41). One example of controversial “authority” over infrastructure projects in relation to protests would be the Critical Infrastructure Act.

Critical Infrastructure Act

The Critical Infrastructure was a law introduced to protect essential infrastructure from tampering, damage or interference from any protestors or blockades. However, the Act is incredibly disputed by many due to the fact that it gives the government and law enforcement extreme power to criminalize protestors and heavily infringes on many rights such as peaceful assembly and protest. Mainly, however, this law disproportionately targets Indigenous Peoples and protestors because of their rightful opposition to the many resource and economic projects being built on their territory. Evidently, this law has been used as a controlling tool of neo-colonialism by the Canadian government in order to defend their forceful and authoritarian practices against Indigenous Peoples and their land. This act is also highly reminiscent of other colonial acts imposed onto Indigenous Peoples such as the Indian Act, which, as previously mentioned, is a systemically discriminatory Canadian Federal Law that mainly seeks to regulate the lives of Indigenous Peoples, much like the Critical Infrastructure Act, although the Critical Infrastructure Act seems to be more deceptive and indirectly discriminative in the way that it mainly targets Indigenous Peoples without actually saying so.

The Alberta Government (n.d.) *b*, defines the Critical Infrastructure Defence Act as follows:

The Act protects critical infrastructure by creating offences for wilfully and without lawful right, justification, or excuse trespassing upon critical infrastructure; damaging or destroying critical infrastructure; or obstructing, interrupting, or interfering with the construction, maintenance, use, or operation of critical infrastructure in a manner that renders it dangerous, useless, inoperative, or ineffective.

Some individuals may view the Critical Infrastructure Defence Act as an act that protects public safety, enforces the significance and importance of Canada's economy, and is a law that supports the ongoing development of wealth and resources of Canadian citizens. To others, particularly Indigenous communities and Peoples, the Critical Infrastructure Defence Act is a law that has severely impacted the well-being and lives of groups and bands across Canada. As French (2020) reiterates, the Alberta government's Bill-1 is an affront to democratic rights, an authoritarian overreach, and a threat to Indigenous People's way of life.

The contrasting action between the Wet'suwet'en protests versus the protests at the Coutt's Alberta border in support of the Freedom Convoy of 2020 is a blatant display of discrimination and demonstrates the ongoing systemic racism that Indigenous Peoples continue to experience in Canada when it comes to their rights, particularly their territorial rights. This observation became evident as the Critical Infrastructure Defence Act was not implemented for the Coutt's Alberta border protests where politicians were silent and law enforcement made little to no effort to engage in any sort of action to swiftly shut the protests

down. The blockade put a stranglehold on the 224-person village of Coutts from January 29th to February 14 2022, restricting commercial access across the Coutts-Sweetgrass border crossing, which is Alberta's busiest trade route (Rodriguez, 2022).

According to the Alberta Government (n.d.) *a*, Coutts is a village in southern Alberta that is a port of entry into Montana and is one of the busiest ports of entry on the Canada-United States border which connects Highway 4 to Interstate 15, an important trade route between Alberta, American states along the I-15, and Mexico. This trade route is therefore evidently an extremely important part of Canada's economy and connection to incoming and outgoing resources. The blockage of this route, should, by the definition of the Critical Infrastructure Defence Act, very well be a critical infrastructure that holds great importance for commercial business in Canada. The question lies in why law enforcement and politicians were not quick to shut down the protests that were blocking this important trade route.

Evidently, the Critical Infrastructure Defence Act has been applied differently to Indigenous protests than it has been to predominantly white protests, such as the Freedom Convoy protests at the Coutts Alberta border in 2022. In a statement made by the Athabasca Chipewyan First Nation (ACFN) Chief and council, it was said that if the Coutts protest was organized by Indigenous People, authorities would have responded quickly to remove it (Mertz, 2022). Mertz also writes the Chief of ACFN's comment on the Act where he says that "the Critical Infrastructure Defence Act, passed in 2020, was created in response to Indigenous railway blockades protesting pipeline development on Indigenous territories. This law was used to end Indigenous blockades - so the question that must be asked is: Why is the blockade at Coutts allowed to continue?"

In Narine's (2020) article on the lack of action at trucker's blockades, she includes another statement by ACFN's Chief Allan Adam:

Bill 1 is geared towards First Nations when it comes to major development on traditional territories of First Nations people when they advocate for a clean environment or clean drinking water or for economic development. When things don't go their way, there's a dispute, and when a dispute comes up, tensions grow between two organizations. And that's why they put up this Bill 1 up, to alleviate First Nations from protesting on traditional lands.

Chief Allan Adam of ACFN's comment about the need to advocate and protest for clean drinking water, environments, or economic development is reflective of the aspects of systemic discrimination and neo-colonialism in Canada. As previously discussed, systemic discrimination and aspects of neo-colonialism manifest in the ways that the Canadian government refuses to alleviate poverty in Indigenous communities and fails to allocate proper resources and funding towards many groups and reserves. In addition to these ongoing issues, the Critical Infrastructure Act is another blatant example of systemic discrimination and neo-colonialism in the way that the Act was, firstly, created solely in response to Indigenous Peoples who were simply exercising their right to protest on their traditional territories and lands against forceful Canadian government officials and companies. Indigenous Peoples rely heavily on their land for many resources, and the laying of pipelines on traditional lands is dangerous in the way that they hold the ability to pollute the environment, destroy ecosystems and contaminate agricultural land. Secondly, once the Act was passed, law enforcement and government officials made no effort to fairly enforce

the Act among other kinds of protests, including the Freedom Convoy protests. As ACFN's Chief observed, the Coutts border protest was not shown the same urgency by law enforcement as shown with Indigenous protests such as the Wet'suwet'en Coastal GasLink protest.

Media and Settler Representation

The role of social media and other public representations of Indigenous protests play an important and significant role in the portrayal of Indigenous action and voices, and the ways in which neo-colonialism manifests itself in ways other than systemic discrimination and governmental control. Social media has the strong influential ability to shape the public's view on many social, political, and environmental issues and therefore serves as a channel to whether society may view a certain issue or subject in a positive or negative light. This is especially significant for Indigenous protests in Canada, as more often than not, Indigenous peoples are painted in a negative light by law enforcement and government officials which reinforces the colonial problem in Canada and continues to push the agenda of alienating Indigenous Peoples from Canadian society. While the media may occasionally leverage discussion of broader social issues like community health or structural discrimination (Duarte, 2017; Moscato, 2016, as cited in Popham and VanEvery, 2018) it primarily does so through a colonial lens that employs archetypal 'knowledge' of Indigeneity to frame discussions (Gilchrist, 2019; Monchalin, 2016, as cited in Popham and VanEvery, 2018). This media packaging focuses on confirmatory and contradictory representations of Indigenous Peoples and their communities, frequently defining them as "problem people" (Fleras, 2011, pg.153, as cited in Popham and VanEvery, 2018).

In Hume and Walby's (2021) analysis of various news article reports on the Wet'suwet'en protests, three major themes emerged throughout the articles. These themes were "Reduction of Issues to Pipelines", "Land Defenders as Protesters", and "Indigenous Groups as Divided." As Hume and Walby explain, while the struggle in Wet'suwet'en territory is indeed premised on the construction of the much-disputed Coastal GasLink pipeline, the pipeline is not the true heart of the issue. They further argue that it is rather indicative of a larger question about Indigenous sovereignty, self-determination, and consent. Although there were articles that did seem to focus a bit more on the broader picture, Hume and Walby indicate that there were still four times as many articles available to the public that centered the pipeline as the main issue instead of Indigenous sovereignty and consent.

The issue with centering the main problem around the location of the pipelines and the land that it is on is that it reflects aspects of Canadian neo-colonialism by pushing the fact that Government officials have once again completely ignored and disvalued Indigenous sovereignty and consent on their traditional territory by imposing their own rules and regulations. As Hume and Walby iterate, this discrepancy translates to the Canadian judicial system which is charged with granting injunctions. In 2019, British Columbia's Justice Marguerite Church had granted Coastal GasLink application for an interlocutory injunction which restrained Wet'suwet'en protestors from barring workers from getting through their checkpoints (Lindsay, 2019). Lindsay further explains that Church's order confirms an interim injunction that had been in place for the last year, which therefore included an order providing RCMP with the power to enforce it. Fourteen people were arrested in January, 2019 when RCMP moved in to enforce the interim injunction order (Lindsay, 2019). This resonates with Hume and Walby's argument that while halting the pipeline and maintaining

Wet'suwet'en occupation of their territory are part of the struggle, they are microcosms of the more contentious issue of unsettled Canadian jurisdiction.

Law Enforcement & Indigenous Protests

In Canada, generations of First Nations people, Métis, and Inuit have been and continue to be negatively impacted by the effects of colonial policies and practices explicitly intended to assimilate Indigenous people (Missing and Murdered Indigenous Women and Girls, 2019, as cited in Statistics Canada, 2022). The Royal Canadian Mounted Police (RCMP) have a long-standing history of consistently using brutality and violent tactics against Indigenous Peoples in Canada which is yet another example of the systemic discrimination and neo-colonial tactics that Canada continues to employ in order to prevent Indigenous sovereignty. Evidence of these brutal and violent tactics can be seen in many other past Indigenous Protests such as Oka, Gustafsen Lake, and Caledonia, among many others.

The Oka, Quebec Indigenous-Police confrontation had begun over the dispute over a piece of land designated for the expansion of a golf course (Hedican, 2012). According to Hedican, the disputed area was the site of a Mohawk cemetery and a portion of a pine cemetery. The dispute emerged in full force when the Mohawk decided to barricade the location on July 11, 1990 (Hedican, 2012). When the Mohawk had barricaded the area, Oka's mayor decided to ask the Quebec Provincial Police (QPP) to intervene. Ultimately, the QPP decided to storm the barricade but was repulsed by the Mohawk protestors who were, by that time, armed (Hedican, 2012). In the end, further confrontations developed when Quebec Premier invoked the National Defence Act and spent \$83 million dollars bringing in

Canadian federal troops. However, the greatest cost of this situation was the loss of Corporal Marcel Lemay's life (Hedican, 2012).

The Gustafsen Lake standoff was a confrontation between the RCMP and a group of Indigenous protestors in 1995. The confrontation had risen over a claim by the Shuswap Sundance Society that the land around Gustafsen Lake was part of their traditional territory and had been illegally taken over by a local rancher. According to Hedican (2012), what occurred over the ensuing summer months of 1995 was one of the largest police actions ever conducted in Canadian history, where several hundred RCMP officers confronted the Shuswap groups with tactical assault training, two helicopters, and nine armoured personal carriers. Hedican writes that with the escalating threat of violence, Assembly of First Nations Grand Chief Ovide Mercredi visited the camp and appealed for calm from both parties. He disputed the BC government and RCMP characterization of the Defenders by saying that "the individuals are not terrorists, they are people with strong convictions...they are not criminals" (Platiel, 1996, as cited in Hedican, 2012).

The Caledonia dispute involved 40 acres of land purchased by Henco Industries in 1995, but the Six Nations sued the federal government over this land transfer, claiming that they had never surrendered the property (Hedican, 2012). Hedican writes that in February 2006, members of the Six Nations reserve set up tents and a wooden building on the property. Hedican further explains that various court orders were issued against the Aboriginal occupiers, including a contempt of court charge, which lead to the Ontario Provincial Police arresting twenty-one members of the protest group. With time, more protestors arrived, and more barricading efforts ensued, blocking off the main road into Caledonia. Hedican explains that several altercations ensued into the month of June 2006,

and to finally end the Caledonia dispute, Ontario bought the land from Henco Industries to cool tensions.

The Oka, Gustafsen Lake, and Caledonia protests all suggest an eerily similar pattern with law enforcement and government officials, and there are several other cases that could be used to demonstrate this pattern as well. As Hedican (2012) describes, first, a frustrated group of Indigenous People rightfully lay claim to a particular piece of property, which they suggest has been removed illegally from their possession. Hedican continues to say that confrontations then ensue, leading to conflicts between the protestors, police, and possibly local non-Indigenous residents. Hedican explains that at times, firearms are discharged, and deaths have occurred in such instances. Hedican then goes on to state that eventually, with an escalation of violence, provincial authorities intervene and frequently a monetary settlement is reached. Evidently, these reoccurring patterns point to the larger questions of why Indigenous land and rights are not simply protected and respected, and why peaceful and fair negotiations cannot be discussed beforehand to prevent large disputes. These questions point to Canada's neo-colonial practices of maintaining control over Indigenous Peoples and sovereignty.

In Hume and Walby's (2021) analysis of news articles covering the Wet'suwet'en protests, they briefly touch on media manipulation and the use of words in an attempt to imply certain narratives against Indigenous protesters. In this section, the use of forceful and violent police tactics are brought to light. Hume and Walby write that qualifying the injunction enforcement as "peaceful" implies there have been instances where the "anti-pipeline" protest camp has been violent, thus validating not only the RCMP's involvement but also their excessive use of force as outlined in a 2019 article by Dhillon and Parish. They

further write that this article had revealed that RCMP officers were instructed to “use as much violence at the gate (at Gidimt’en Access Point) as (they) want.” Dhillon and Parish’s (2019) article also describes how notes from a strategy session for a militarized raid on ancestral lands of the Wet’suwet’en nation show that commanders of the RCMP argued that “lethal overwatch is req’d” which is a term for deploying an officer who is prepared to use lethal force.

Hume and Walby also describe the way Winter, Jesse, and Grauer’s 2019 article “What You Haven’t Heard from inside the Battle of Gidimt’en Checkpoint” had written about RCMP officers moving in to enforce an injunction at Gidimt’en Access Point:

As the morning wore on, two more protesters huddled inside a metal-framed box and locked their arms across the checkpoint gate. The first officer over the wall collided with a protester, and both crashed to the ground. The officer’s rifle swung wildly as he tackled the man, pressing his face into the frozen ground. The division liaison officers came forward again, and the remaining protesters were given a choice: either leave the bridge now or be arrested. By day’s end, 14 people would be in police custody.

Hume and Walby further iterate that when certain media frame Indigenous land defenders as protesters, it is more acceptable for RCMP officers to carry rifles, tackle, and arrest people who are otherwise non-violent because they themselves are suddenly implicated in the potentiality of violence (pg. 525). The use of violence against otherwise peaceful Indigenous protesters who are simply defending their unceded territory from the Canadian government is blatant evidence of systemic discrimination that still exists in

Canadian society. The Freedom Convoy that illegally occupied Ottawa and Coutts border for over three weeks has revealed what it means to be Indigenous and experience systemic discrimination all while being forced to watch the primarily white and privileged convoy be provided with obvious privileges.

For weeks, police lacked action against the convoy despite evidence of threats, assaults, and highly disruptive behaviour. Further, evidence of police actually supporting the convoy exists as a CBC news article explains that the Ottawa Police Service has confirmed it's been investigating a small number of officers who may have supported the so-called Freedom Convoy since the early days of the illegal occupation in the downtown core (“Ottawa police confirms it’s investigating officers”, 2022). Lastly, the leniency extended to the convoy protesters also included how police issued two warning notices over the span of a week for protestors to cease unlawful activity or *potentially* face arrest (Ottawa Police Service, 2022, as cited in Stelkia, 2022). Stelkia further writes that the noticeably gentle reminder to Freedom Convoy protesters that they were actively participating in an illegal occupation and *may* face arrest is a benefit that structural racism provides to white settler members of society. Unfortunately, the differing police action against the Wet’suwet’en protests and the Freedom Convoy of 2022 demonstrates the contemporary realities that Indigenous people must endure in the face of the controlling nature of neo-colonialism in Canada.

According to Forester (2023), an RCMP squad tasked with policing resistance to resource extraction in British Columbia spent nearly 50 million dollars enforcing injunctions obtained by the petroleum and forestry sectors in its first five years, as an internal accounting shows. In Forester’s article on RCMP budget for the Wet’suwet’en protests, he recounts how

Na'moks, a hereditary chief of the Wet'suwet'en nation, says that "the human rights, the Indigenous rights of this country are being weakened day by day by allowing that money to be spent on such units as C-IRG, which did not exist more than a few years ago" (para. 5). Also in Forester's article, he recounts how Meghan McDermott, policy director at the British Columbia Civil Liberties Association also expressed concern about the lack of accountability and oversight when shown the absurdly large numbers. McDermott said that "it seems like a deliberate political choice not to restrain them whatsoever" (para. 16) and "I've worked in government...it seems just so absurd to me to have a unit that has no budgetary restrictions" (para. 17).

What does the amount of money being spent to police the Wet'suwet'en protests say about systemic discrimination against Indigenous peoples in Canada? How does the lack of accountability and lack of budgetary restrictions for law enforcement demonstrate the ongoing enablement of neo-colonialism for Indigenous Peoples in Canada? The fact of the matter is that the Canadian government has stopped at nothing to invalidate the sovereignty of Indigenous communities. The lack of budgetary restrictions amounting to more than 50 million dollars for the RCMP, among other governmental controls, versus the government's effort into putting money towards Indigenous economic, political, and social resources (which are severely lacking) demonstrates where the Government of Canada's priorities lie.

Their priorities do not lie with the human beings whose livelihoods were ripped apart by the Canadian government in the past, they do not lie with the human beings whose lands were forcibly stolen from them, and they do not lie with the human beings who deserve reconciliation, compensation and healing for the continuous oppression they face in Canadian society, but they simply lie with the advancement of Canada's economy. They lie

with practices that benefit the privileged members of Canadian society while they push Indigenous issues to the side. All in all, the budget used for the Wet'suwet'en protests effectively demonstrates just how far Canada is willing to go to ensure that the neo-colonial, controlling nature of Canada's government ensures ongoing power over Indigenous Peoples and their rights.

Indigenization, Decolonization & Reconciliation

The Wet'suwet'en protests not only demonstrate a clear example of ongoing colonial violence and the RCMP's contribution to the controlling nature of neo-colonialism but also demonstrates the fact that Canada's "progress" in decolonization and reconciliation may be nothing more but a moral/political antic. As Elliott (2020) explains, the word "reconciliation" has been used by the Canadian government to describe their supposed desire to make things right with the Indigenous people after centuries of ongoing genocide. Elliott adds that "reconciliation" is not an official policy but rather a political buzzword repurposed to signal moral progress on Indigenous issues. Indigenization, decolonization, and reconciliation are all terms that are often used together in the context of the relationship between Indigenous Peoples and non-Indigenous people in Canada. Often, people may recognize these words as meaning the same thing, however, it is important to understand how they differ in order to use them in conjunction to effectively repair the harms done by past colonialism and neo-colonialism.

Canada's identity as a settler colonial state complicates the task of decolonization since the original colonizers never left and since acts of colonization continue to the present

(Lowman and Barker, 2015, as cited in “What is Decolonization,” 2023). Coulthard (2014) explains that if decolonization is the removal or undoing of colonial elements, then Indigenization could be seen as the addition or redoing of Indigenous elements (as cited in “What is Decolonization,” 2023). Power, dominance, and control are rebalanced and returned to Indigenous peoples, and Indigenous ways of knowing and doing are perceived, presented, and practiced as equal to Western ways of knowing and doing (“What is Decolonization,” 2023, para. 4). Reconciliation refers to the process of repairing and restoring relationships between Indigenous peoples and non-Indigenous peoples, and in the Government of Canada’s (2022) words, building a renewed relationship with Indigenous Peoples based on the recognition of rights, respect, and partnership. Ultimately, all three concepts are about the recognition and respect of Indigenous rights, values, and perspectives, and striving towards a more equitable society in Canada.

In light of decolonization, reconciliation and Indigenization, Paulette Regan, director of research for the Truth and Reconciliation Commission of Canada, writes in her 2010 article “Unsettling the settler within: Indian residential schools, truth-telling and reconciliation in Canada”:

Unsettling the settler within necessarily involves critical self-reflection and action in our lives - a difficult learning that is part of the struggle we must undertake. At the same time, we must also work in respectful and humble partnership with Indigenous people to generate critical hope -a vision that is neither cynical nor utopian but rooted in truth as an ethical quality in the struggle for human dignity and freedom. (pg. 237).

As seen with the different practices between the Wet'suwet'en protests and the Freedom Convoy, Canada must recognize that the concepts of decolonization, and reconciliation are severely lacking and is demonstrative in the way that law enforcement and the government continue to undermine the basic rights and sovereignty of Indigenous Peoples and their rightful land. The government of Canada, law enforcement, and Canadian society have a long way to go in rebuilding trust with the Indigenous Peoples of Canada who were settled on this land and called it their home way before European colonizers entered Canada and destroyed their way of life. It is not only a responsibility but a civic duty due to the benefits that citizens of Canada have reaped from the colonization of Indigenous Peoples.

Summary & Conclusions

The responses to the Wet'suwet'en protests highly demonstrate the systemic discrimination that is still deeply entrenched in every one of Canada's systems. Many aspects of the Wet'suwet'en protests also demonstrate the way in which law enforcement has continued to maintain control of Indigenous sovereignty and has enabled the neo-colonialist ways of the modern Canadian government. The colonial violence that Indigenous people have continued to experience begins with the Royal Proclamation of 1763 where it was understood that all land would be considered Indigenous territory unless ceded by treaty. The Wet'suwet'en territory was readily recognized as unceded territory by the Supreme Court of Canada in *Delgamuukw v. British Columbia* over 20 years ago which has demonstrated the ignorance of law enforcement and the modern Canadian Government over Indigenous sovereignty issues by readily disregarding these treaty facts and instead pushing their agenda to advance economic development.

As the Wet'suwet'en protests advanced, it became clear through the actions and inactions observed at the Freedom Convoy locations of 2022 that law enforcement have an extreme bias for primarily white and privileged groups of people as opposed to Indigenous Peoples. The Critical Infrastructure Act, an act meant to penalize individuals who trespass, damage, or interfere with "essential" infrastructure was a clear affirmation of neo-colonial control being imposed on Indigenous Peoples. It was seen that with both the protests, the act was immediately enacted, and was even *made* in response to Indigenous protest, but was failed to be used in the Freedom Convoy protests where politicians and law enforcement were silent and failed to swiftly shut down protests as they did with the Wet'suwet'en protests.

Media portrayal and police violence were another key issue with the Wet'Suwet'en protests. Online news articles plastered across social media in Canada were mostly riddled with authors attempting to simplify the dispute in the Wet'suwet'en territory by labeling the issue as simply a "pipeline" issue and not actually the massive issue of the Canadian government failing to uphold their duty to recognize Indigenous sovereignty and consent on their rightful land. Another telling sign of neo-colonial control was the demonstration of police violence during the Wet'suwet'en protests and the command to be as forceful as needed when during the Freedom Convoy, despite evidence of threats, violence and disruptive behavior, RCMP showed more leniency by issuing multiple warnings over the span of weeks and some even demonstrating *support* for the protestors, while RCMP had seemingly racked up 50 million dollars policing Wet'suwet'en and whose budget was not restricted.

The literature on the Wet'suwet'en protest versus the Freedom Convoy protests strongly suggests that despite centuries of colonialism, violence, discrimination and the supposed "recognition" of the wrongs the Canadian government has committed against Indigenous

Peoples, law enforcement and the government has nevertheless continued to impose neo-colonial ways of control against the Indigenous community in Canada. Evidently, several main findings have emerged regarding these issues:

1. The protests have highlighted the ongoing tensions between Indigenous land rights and the Canadian government's approach to resource development.

The ongoing tensions between Indigenous land rights and the government's approach to resource development is relevant due to the historical injustices that ensued for centuries among Indigenous Peoples because they were often tied to the exploitation of land and resources. Indigenous Peoples, have, for a very long time, relentlessly fought for the recognition of their legal rights, which have continuously been met with resistance from the government, as demonstrated. This evidently calls for the need for recognition of Indigenous sovereignty and rights.

2. The protests have highlighted the need for greater communication between Indigenous Peoples and the Canadian government.

The need for greater communication between Indigenous Peoples, non-Indigenous peoples, and the Canadian government is relevant due to the lack of trust and feelings of disrespect that most Indigenous Peoples feel from the federal government. This is a major blockage towards reconciliation, indigenization, and decolonization, which is a must for the advancement of an equal and fair Canadian society.

3. The protests have brought to light many other underlying issues such as systemic discrimination, unequal distribution of resources in Canadian society, and the general overrepresentation of Indigenous Peoples in the justice system.

The other underlying issues that the protests have brought to light are relevant due to the fact that it has been such a longstanding problem and has resulted in an extreme power dynamic between Indigenous Peoples and the Canadian government, along with feelings of distrust, disrespect, and oppression. Evidently, these issues are deeply rooted in colonialism, and as mentioned, are a major blockage toward reconciliation of any kind, and highly impedes the well-being and prosperity of Indigenous Peoples in Canada.

All of the main findings are highly relevant and generally point to the ideas of reconciliation, acknowledgment of past colonialism, of neo-colonialism, acknowledging Indigenous rights and sovereignty, and recognizing that Canada needs more work for a more equal and just society. It is necessary for Canada to acknowledge the harm of colonialism and recognize that with the evidence presented, neo-colonialism is extremely prevalent and has been highly enabled by law enforcement and various other government practices, as was demonstrated in the Wet'suwet'en protests.

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