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## I Could Turn You to Stone: Indigenous Blockades in an Age of Climate Change

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# I Could Turn You to Stone: Indigenous Blockades in an Age of Climate Change

## Abstract

Indigenous Peoples in Canada and around the world have, for years, used blockades and direct action when alternative means of asserting their rights have failed. The Secwépemc First Nation of British Columbia, Canada, has a myth where a character, *Sk'élep*, encounters strangers who try to “transform” him, but fail. He tells them he could turn them to stone, but he will not. This myth is used as a lens to reflect, from a settler perspective, on the potential for future Indigenous-led blockades, which could reach the point of mass economic shutdowns, in response to a lack of action on both Indigenous rights and climate change. Up until now, the policy of most colonial nations has been to deal with Indigenous blockades by force or at best with localised solutions. This policy will not work regarding climate change. This article proposes that the Western world faces a stark choice: truly embrace “free, prior, and informed consent” (FPIC), or else face the possibility of large scale shutdowns from a growing alliance of Indigenous Peoples, environmentalists, and concerned citizens.

## Keywords

Indigenous blockades, Aboriginal protests, pipeline protests, climate change, climate movement, resurgence, free prior and informed consent, policy recommendations

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## “I Could Turn You to Stone”—Indigenous Blockades in an Age of Climate Change

In a 2010 document memorializing a letter sent in 1910 the Secwépemc First Nation (also known as the Shuswap) in the interior of British Columbia, the story of *Sk'elep*, a Coyote or trickster figure from their mythology is retold. As the story goes, in the ancient past visitors came to Secwépemc territory and tried to transform *Sk'elep*. They were unable to. As they tried, he sat looking at them and finally said,

You are making the world right—so am I. Why try to punish me when I have done you no harm? This is my country. Why do you come here and interfere with my work? If I wished, I could turn you into stone, but as you have likely been sent into the world, like myself, to do good, I will allow you to pass, but you must leave this country as quickly as you can. We should be friends, but must not interfere with each others' work. (Shuswap Nation Tribal Council, 2010, p. 2)

The Secwépemc have occupied south-central British Columbia for at least 10,000 years (Ignace & Ignace, 2017). This article does not purport to speak to what the story means to the Secwépemc First Nation, but rather reflects upon it from the perspective of settlers in a post-colonial context.

*Sk'elep* is a prominent figure to the Secwépemc, who is featured in many stories and lessons as the giver of laws and customs, and the story reflects on the initial settler–Indigenous relationship. In its way of reflecting on the relational nature of the meeting of cultures, it is similar to the Two-Row Wampum story of central and Eastern Canada (Seck, 2017).

This story was chosen because it was used in the 1910 memorial to reflect the settler–Indigenous relationship, and also for the particular motif of “I could turn you into stone.” The phrase is being used here as a metaphor for the possibility that Indigenous Peoples could paralyse the Western economy, or part of it, through the use of blockades. That is particularly so if climate change is not addressed and Indigenous Peoples are not empowered to address it.

The *Sk'elep* story relays the principle that “each nation collectively holds its respective homeland and its resources at the exclusion of outsiders” (Shuswap Nation Tribal Council, 2010, p. 1). In that sense, it reflects the connection with land and the responsibility to protect it, which often undergirds actions relating to unwanted resource-use decisions. Some examples of this are the 1984 Meares Island confrontation over old-growth logging (Morrow, 2014); the 1990 “Oka Crisis” in Oka, Ontario (Hedican, 2012; Ladner, 2010); the 2013 Elsipogtog fracking conflict in New Brunswick (Simpson, 2013); and in 2016 at Standing Rock in North Dakota where the blockaders and protesters were called “water protectors” (Rivas, 2017, pp. 66-67).

Europeans came and tried to transform Indigenous Peoples, and some would say they were successful (Vanslyke, 2013; Wahlquist, 2016). However, despite the cultural genocide in which the British-colonial and then Canadian governments engaged, Indigenous Peoples and cultures remain. Not only are Indigenous Peoples still here, but they are experiencing a resurgence with profound implications for Canada and the entire world (Saul, 2014). This resurgence has been expressed in growing political weight, legal victories, a growing population, increasing levels of education, increased participation in the business world, and increased cultural notice (Manuel, 2017; Nagel, 1996; Saul, 2014).

Throughout colonial history, but particularly and increasingly as part of this resurgence, Indigenous Peoples the world over have used blockades and direct action to get results when all else fails. This is a strategy that one could say Western governments have encouraged by ensuring that all else generally does fail (Borrows, 2016; Hedican, 2012; Manuel, 2017).

The Indigenous resurgence is arguably one of the two biggest phenomena currently shaping our future for generations to come. The other is climate change. The trapping of heat in our atmosphere due to increased greenhouse gases is already transforming our weather and our world (Intergovernmental Panel on Climate Change, 2018). The section on climate change will discuss these impacts generally and the impacts on Indigenous Peoples specifically. It will invite the reader to imagine what those impacts will mean to Indigenous Peoples, why it is a life or death issue for many Indigenous Peoples, and how it therefore could push Indigenous Peoples to desperate acts.

Climate change has disproportionate effects on Indigenous Peoples who live in the most directly impacted areas, as they tend to be more connected to the land and already marginalized (Ramos-Castillo, Castellanos, & McLean, 2017; Wilkes, 2006). That is additionally unfair when you consider that Indigenous Peoples have had only a minor role in causing climate change.

Climate change is a problem that cannot be solved without meaningful and widespread change. This article argues that the Western world faces a stark choice: Embrace the principle of free, prior and informed consent (FPIC), as embodied in Article 32 of the *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP, 2007), or face the possibility of large-scale shutdowns from a growing alliance of Indigenous Peoples, environmentalists, and people from all walks of life simply concerned about their futures.

UNDRIP was adopted by the UN General Assembly in 2007. Article 32 of UNDRIP is the most controversial, as it embraces the principle free, prior and informed consent for states, vis-à-vis Indigenous Peoples. That was the main reason for Canada's original refusal to sign, although they subsequently have done so (Borrows, 2016; Manuel, 2017; Truth and Reconciliation Commission of Canada [TRC], 2015). The precise meaning of the term, and whether it creates a further duty to consult or a right to veto has led to considerable academic, public, and political discussion, with no clear resolution in sight. In Canada, it will likely be resolved in the courts (Imai, 2017).

As we will examine, many authors have for years pointed out the possibility of large-scale blockades by Indigenous Peoples, such as those in relation to the Oka Crisis in 1990, Idle No More in 2012, Elsipogtog in 2013, and North Dakota in 2016 (Manuel, 2017). The threat or possibility of large-scale blockades, direct action, or shutdowns has loomed in these past events and others, but never reached the point of paralysing the economy or being a mass shutdown.

It is proposed here that a failure to deal with climate change, particularly as it affects Indigenous Peoples, and any failure to empower Indigenous Peoples to protect themselves from climate change, could be a tipping point leading to drastic mass action. To any post-colonial settler looking at this story through the lens of climate change and Indigenous actions, it should be a sobering reflection on the settler-Indigenous relationship. The threat of being "turned to stone" highlights one potentially disastrous path—that of mass blockades and shutdowns by an Indigenous-environmentalist-citizen alliance.

This article is not advising the use of blockades, but rather is intended to draw attention to the increasing likelihood of them, based on various courses of action, and also suggests how to avoid that eventuality. This article will be laid out as follows: The first step will be to briefly give some background, review the related history of colonialism, and then discuss the Indigenous resurgence. After those foundational matters are dealt with, the four theses will be discussed:

- a. That the current and longstanding conflict over Indigenous land rights and decision-making is bringing these two forces inevitably to a point of conflict;
- b. That the policy thus far in most colonial nations has been to ignore land rights issues, and to let the police, or at times the military, deal with them as conflicts arise (Hedican, 2012);
- c. That because of the nature of climate change as both a global and a life-or-death issue, especially for Indigenous people, the aforementioned policy will not work and will only lead to spiralling conflict; and
- d. That there is a better way: Granting the veto power envisioned by UNDRIP, ensuring its meaning is completely clear to all parties, and empowering Indigenous Peoples to develop their own governance and decision-making systems that are as free from the bounds of colonialism as possible.

This article uses Canada as a lens, but the issue is international and global in scope and will also be discussed on those levels.

### **Background**

The struggle over oil and gas development is merely the latest in a myriad of other issues in the struggle for Indigenous sovereignty and recognition. The difference between oil and gas as an issue and past resource struggles involving Indigenous Peoples is that the threat of oil and gas development is not just local through spills, etc., but global, through climate change. The spectre of climate change has been looming for decades and now, with increasing storms, floods, and fires, is becoming a stark reality (Gabbatiss, 2017).

This battle against pipelines and runaway climate change squares Indigenous Peoples and environmentalists against the oil industry and the governments that promote it. The most recent front may have been in Burnaby, against the Trans Mountain pipeline, but there have been many other recent incarnations, among them: North Dakota's Standing Rock protests against the Keystone XL and Northern Gateway pipelines, in Ecuador, the Peruvian Amazon, Nigeria, Kenya, among the Inuit in the North, and too many others to list (Boos, 2015; Cultural Survival, 2017; Finer, Jenkins, Pimm, Keane, & Ross, 2008; Lobe, 2002; Manuel 2017; Orta-Martínez & Finer, 2010; Raygorodetsky, 2017; Suzuki & Moola, 2016). In Peru, in 2009, Indigenous Peoples resisted the exploitation of Amazonian oil reserves with peaceful protest for months. However, after the police were ordered to remove blockades by force, 50 Indigenous People were killed, hundreds more wounded or arrested, and nine police officers were also killed (Vidal, 2009).

As this article is being written, Indigenous and non-Indigenous protestors are being arrested in Burnaby, a suburb of Vancouver, British Columbia, over the Trans Mountain pipeline (Trans Mountain). The Trans Mountain pipeline runs from the Alberta tar sands to Burnaby, BC, just outside of Vancouver. It

was built in the 1950s and, in 2013, then owner Kinder Morgan applied to twin the pipeline and nearly triple its capacity (Canadian Press, 2018b; “Trans Mountain Pipeline,” n.d.b).

There were early protests in 2014 over Trans Mountain, and the public review process was criticised as being undemocratic and even “fraudulent.” Nonetheless, the federal government approved the application in November 2016, with the new BC New Democratic Party (NDP) government opposed to it and the Alberta NDP government in favour, resulting in threatened and initiated (although incomplete) Constitutional litigation. In that context, serious protests began in March 2018 and ended in August, with over 200 people being arrested for contempt of court and other charges (Canadian Press, 2018b; Trans Mountain Pipeline, n.d.a).

On April 7, 2018, in Burnaby, the Grand Chief of the BC First Nations organization, the Union of BC Indian Chiefs (UBCIC), along with key executives and such notables as author Naomi Klein, blockaded the Trans Mountain facility (then owned by Kinder Morgan), stopping work. Unlike previous blockades, Kinder Morgan did not ask the RCMP to remove the protesters, but instead shut down operations for the day (Canadian Press, 2018a; Ward, Smart, Bennett, Rabson, & Smith, 2018). On the following day, Kinder Morgan announced they were suspending all non-essential work on the pipeline, partly due to the intensity of the opposition, and expressed concerns about the wise use of shareholder resources. In the face of massive opposition and numerous lawsuits, largely from Indigenous Peoples, some speculated that the project is not viable, and this action was just a way to pressure the government to push their pipeline through or to get paid for having it fail (S. Klein, 2018).

Around that time, the Chiefs of Ontario signed on to the North America-wide Treaty Alliance Against Tar Sands Expansion, adding a further 133 First Nations to the 150 Nations that had already signed (Meyer, 2018a; Treaty Alliance Against Tar Sands Expansion, 2018b), reflecting the growing power and leveraging of solidarity (Treaty Alliance Against Tar Sands Expansion, 2018a). Since that time, in a number of steps (or missteps, depending on one’s point of view), the Government of Canada became the new owner of the proposed Trans Mountain pipeline. When Kinder Morgan shut down work in April, they gave Canada a one-month ultimatum—ensure their pipeline would get built, or they would pull out. Canada instead offered to buy the pipeline for \$4.5 billion, with a projected real cost of over \$15 billion (Allan, 2018).

On August 30, 2018, the Canadian Federal Court of Appeal rendered its decision on the 12 legal challenges to the proposed pipeline’s approvals, striking them down for not having taken into account the negative impacts of increased marine traffic and for having failed to properly consult Indigenous Peoples (C. Smith, 2018; *Tsleil-Waututh Nation v. Canada (Attorney General)*, 2018). The case was initiated directly in the Canadian Federal Court of Appeal, in 12 separate challenges to the November 29, 2016, federal approval on the basis of insufficient consultation, and not taking marine shipping into account. Those cases were filed by a number of First Nations, municipalities, and environmental groups, including Chief Ron Ignace on his own and on behalf of the Stk’emlucsemc te Secwépemc of the Secwépemc Nation. Again, to remind the reader—the Secwépemc are the nation that tells the story of *Sk’elép*, who said, “I could turn you to stone” (Shuswap Nation Tribal Council, 2010, p. 2).

The next day, Kinder Morgan shareholders voted to accept Canada’s \$4.5 billion-dollar offer, and Canada become the owner of the project (Clancy, 2018). On September 21, 2018, Canada announced a

new, 22-week consultation process, with a longer and as of now uncertain timeline for consulting Indigenous Peoples (Meyer, 2018b; Wyld, 2018).

The above story simply reflects a policy that this article proposes exists: that of ignoring Indigenous concerns, rights, and land claims, and instead pushing projects forward and then resolving issues through conflict. It also clearly reflects the need for a reminder that there is a better way. At the same time, the story may reflect some progress. Compared to earlier incidents, to be discussed later in this article (such as the Oka Crisis of 1990), the Canadian government could be said to have used restraint in their application of force, in that the military was not used. The broad presence of non-Indigenous protestors could have been a factor in the greater restraint, it is impossible to know. Perhaps most importantly, the story reflects another powerful tool that the Secwépemc, who tell the story, and all Indigenous Peoples have to turn unjustified projects to stone—the law. This would also be a useful point to note that Robert Lovelace, in his short work “Notes from Prison,” openly describes the four-prong strategy he used in fighting uranium mining in Ontario and advises other Indigenous Peoples to do the same. The prongs are: research, community education, legal action, and direct action (Lovelace, 2009). It would appear that the Secwépemc may have used this strategy to powerful effect in their fight against the Trans Mountain pipeline (Canadian Press, 2018b; *Tsleil-Waututh Nation v. Canada (Attorney General)*, 2018).

### **A History of Trying to Transform Indigenous Peoples**

The colonial project started in 1492, with Christopher Columbus’s arrival in the New World (often referred to as his “discovery” of it). It was enabled by Papal Bulls, or announcements made by the Pope, in 1493 that laid the groundwork for the “Doctrine of Discovery,” the principle that European powers used to justify colonization of the Americas, Australia, and other places around the world (TRC, 2015, p. 46). In 1497, John Cabot arrived in Newfoundland and, throughout the 1500s, European powers moved out into the world to conquer and claim at will, on the basis of religious and philosophical justifications (Polack, 2018; TRC, 2015). That said, colonialism did not really begin for Indigenous Peoples in western North America, and other places, until much later. The Secwépemc did not encounter White people until the arrival of Alexander Mackenzie in 1793, and not in numbers until much later. The newcomers brought smallpox, which, between 1862 and 1863, wiped out two-thirds of the Secwépemc population. This allowed wholesale takeover of Secwépemc lands as settlers moved in to claim the country for themselves (Ignace & Ignace, 2017).

The colonial process in North America can be described by a set of deliberate policies, actions, and events. A key event was the introduction of diseases that wiped out tens of millions of Indigenous people (Sellars, 2016). The first recorded epidemic in North America occurred in New England in 1616; it wiped out so many Indigenous people that when settlers arrived a few years later all they found were bones, skulls, and abandoned villages and corn fields (Reo & Parker, 2013). An early policy, which was critical to the colonial project on the Great Plains, was the intentional destruction of food sources, such as bison (often referred to at the time as buffalo; Phippen, 2016). The early and ongoing cultural invasion of missionaries was a key part of breaking down Indigenous spirituality, family relationships, and cultural practices. It was state-sanctioned and integral to the colonial project whose key aim was the acquisition of land and resources (TRC, 2015). Some other colonial tools included offering bounties for killing Indigenous people (Paul, 2000), and signing but not honouring treaties (TRC, 2015).

After Confederation, unifying a number of provinces into the nation of Canada, assimilation became the central policy regarding Indigenous Peoples. One of the key methods of assimilation was the residential school system. Within that system, Indigenous children experienced unprecedented levels of abuse, including harsh discipline, malnutrition, beatings, torture, sexual abuse and exploitation, medical malpractice and experimentation, and death (Saul, 2014; Sellars, 2016; TRC, 2015). They were stripped of their language and culture, all for the purpose of answering the question of who owned the land. The thought was that if Indigenous people were assimilated into mainstream society there would no longer be an issue (Saul, 2014; TRC, 2015). Other elements of the post-confederation assimilation project were: the creation of Indian hospitals where medical experiments were conducted, the banning of potlaches, banning Indigenous Peoples from hiring lawyers, disenfranchisement, and the pass system (Saul, 2014; Sterritt & Dufresne, 2018; TRC, 2015).

Mainstream Canadian society has been fairly criticized for misrepresenting or understating the impacts of the colonial process and their depth. For that reason, it may be helpful to explore how colonialism is defined by Indigenous Canadians. Umeek (E. Richard Atleo), hereditary Chief of the Nuu-chah-nulth, professor, and author, described colonialism by referencing the subtitle of Darwin's major work, *On the Origin of the Species by Means of Natural Selection, or the Preservation of Favoured Races in the Struggle for Life*. Umeek points out, "the identity of the 'favoured races' and the identity of those not favoured translates into the coercive and hegemonic rule of the colonizer over the colonized" (Umeek, 2011, p. 168).

Bev Sellars, grandmother, former Chief of the Xat'sull First Nation (Soda Creek Indian Band, part of the broader Secwepemc First Nation), Indigenous historian, author, and activist, quotes Malcolm X to describe how settler society views Indigenous Peoples even today: "I have no respect for a society that will crush a man and then criticize him for not being able to stand up under the weight" (cited in Sellars, 2016, p. 185). Sellars points out that the worst traumas foisted upon European society—the great plagues—had breaks of at least 40 years where people could recover and repopulate, but that the Indigenous Peoples of the Americas have had no such breaks from disease and the weight of colonialism, for hundreds of years (Sellars, 2016). Canada's Truth and Reconciliation Commission (TRC, 2015) has described colonialism as "cultural genocide," as has Canada's current Prime Minister Justin Trudeau. Others do not use the qualifier "cultural" and simply term Canadian history regarding Indigenous Peoples as genocide (Woolford, 2009).

Disadvantages have been stacked on the Indigenous Peoples of the Americas and the world in the form of colonialism. Key parts of that colonialism extend to the present day as government failures to deal with land issues and treaties, to honour treaties, and to resolve disputes over resources (Hedican, 2013; Umeek, 2011; Wilkes, 2006). More recently, there has been the gross overrepresentation of Indigenous Peoples in prisons throughout the post-colonial world (TRC, 2015; Wilkes, 2006). In Australia, Aboriginal people make up 2.5% of the population, but 26% of the adult prison population, as of 2014 (Weatherburn, 2014). The numbers are similar in Canada, where Indigenous Peoples make up 4% of the population, yet 27% of the males and 43% of females in sentenced custody, with numbers in some provinces and territories as high as 71%, 78%, and up to 100% in Nunavut (Johnson, 2014; McIntosh & McKeen, 2018). The comparable numbers in Australia and Canada are due to their shared roots in colonialism (Wahlquist, 2016).



In 2009, Robert Lovelace, an Algonquin spiritual leader, wrote an apt description of the colonial process while in a maximum-security prison in Kingston, Ontario. He was there for the crime of contempt of court, for blockading uranium exploration in his traditional territory. He wrote that colonialism is “the process by which a group having exhausted its sustainability options dispossesses another group of its” (Lovelace, 2009, p. ix).

Further reflecting on the colonial process, and the various means employed within it, Robert Lovelace (2009) wrote:

Using seduction or force, a dominant group undermines the power of multiple others. This is the principle mechanism that separates much of humanity from the sacred relationships with the earth and has become normalized in the governance of nations. (p. ix).

A key part of the colonialist project has been the attempt to sever the connection between land and person. This has been done both overtly (Manuel, 2017; Saul, 2014; Sellars, 2016; TRC, 2015) and covertly (Gill & Zwibel, 2017; Manuel, 2017; Wilkes 2006). Overtly, a key purpose of the purpose of the residential school system, which ran for over 150 years in Canada, ending in 1996, was to break the cultural connection with the land in order to enable settlement (TRC, 2015). Both overt and covert methods were used in the FBI takedown of the American Indian Movement (AIM) in 1972 in South Dakota (Churchill, 2003), and covert methods in spying on Idle No More organisers in Canada in 2012 (Gill & Zwibel, 2017).

The history of colonialism in the Americas, Australia, New Zealand, Africa, and throughout the world, up to today, is an ugly one because of the acts that were committed against Indigenous Peoples. It is made even uglier when the reasons are considered—the acquisition of wealth in the form of land and resources.

### **The Policy of Dealing with Land Issues Through Discrete Conflicts**

Indigenous Peoples are the most disadvantaged group in Canada, and government policies that fail to deal with land claims and resource issues have led to conflict, over and over again (Hedican, 2012, 2013). When other routes have failed or been exhausted, “Indigenous Peoples in Canada have used direct action as an important means of achieving social and political justice when more conventional routes have been blocked” (Wilkes, Corrigan-Brown, & Myers, 2010, p. 328; see also Blomley, 1996; Borrows, 2016).

Indigenous Peoples have had to use marches and blockades to draw attention to issues and protect land and rights. Road blockades and other tactics can be an efficient way to get attention without having the numbers of people available that could be drawn on in areas with a larger population base, and their use continues to increase (Hedican, 2012; Wilkes, 2006). Blockades also turn the norm on its head, by restricting settler access to land, where normally and historically it is Indigenous Peoples whose movements are or have been restricted (Borrows, 2016; Blomley, 1996).

Blomley (1996) gave a thorough analysis of Indigenous blockades in British Columbia from 1984 to 1995, noting that there were 30 in the summer of 1990 alone. As blockades evolved as a tool, “many were now placed on public routes, including major roads and rail lines,” and that at one high point

Vancouver newspapers “even began publishing traffic advisories for travelers, detailing Interior blockades” (Blomley, 1996, p. 9).

The spike in blockades in British Columbia in 1990 was at least partly caused by solidarity and support blockades, which sprung up all across Canada in support of the Mohawks at Kanesatake, in the conflict known as the Oka Crisis (Blomley, 1996). The whole world watched the Oka Crisis: The Canadian military was called in, a policeman was killed, an Indigenous Elder died, and a 14-year-old Indigenous girl was stabbed in the chest by a soldier with a bayonet on his rifle (Horn-Millar, 2014; York & Pindera, 1991). The conflict was over the municipality’s attempt to bulldoze a sacred burial ground to expand a golf course. Oka triggered a number of solidarity blockades in support of those under siege; one of which, at the Mercier Bridge in Montreal, in addition to blockades of Highways 132, 138, and 207, ground traffic to a halt over a broad area of Montreal (Borrows, 2016).

Oka is described as “a defining moment for both Indigenous Peoples and settler society separately, and collectively” (Ladner, 2010), and comparisons are already being drawn to Trans Mountain protests in Burnaby, British Columbia (Philip & Simon, 2018). Oka is an important lens for this article because another view of this topic is that it is about “the big one”—not an earthquake, but rather the ever-present, dreaded possibility of mass blockades by Indigenous Peoples, with a serious, widespread shutdown of economy and society.

In the process of reflecting on some of the more serious conflicts and blockades in Canada over the period of 1990 to 2007, Hedican (2012) asked and reflected on some very reasonable questions:

The wider question in these protest cases is: Why are there not adequate means of conflict resolution that would avert such violent confrontations, which endanger people’s lives? The political leaders of this country, both at the provincial and federal levels, appear reticent about becoming involved, at least until the confrontation goes too far and results in property damage and personal injury. Why, also, are the officers of the various police forces placed in harm’s way without adequate guidelines as to their appropriate conduct in such incidents? Certainly, Aboriginal protests pose an ambiguous situation for the police who are apt to feel uncomfortable with the idea that they are forced to act as mediators between First Nations people and government officials in what are, in many cases, land claims negotiations that are essentially matters of civil litigation. (p. 3)

In other words, if matters can be resolved with money, buy-outs, compensation, or in court, why are those avenues not pursued *before* violence arises instead of after? Doesn’t this approach encourage violence? Where resource or development disputes between Indigenous Peoples and the government start out as disputes with local settlers, state enforcement often steps in and uses force in suppressing dissent.

Take for example the 1995 occupation of Ipperwash Provincial Park in Ontario by the Stoney Point Ojibway First Nation, which led to a conflict in which police shot and killed an unarmed man, Dudley George. The Ojibway occupied the park as a last resort to push the government to deal with their claim that the park, formerly reserve land that was appropriated under the War Measures Act, be returned to them (Hedican, 2012). The resulting inquiry was known as the Ipperwash Inquiry. It found, relying in part on the work of Indigenous legal scholar John Borrows that “land and treaties are central sources for

these conflicts,” and that there are three main catalysts for conflict: unresolved land claims, natural resources regulatory regimes, and actual or potential desecration of sacred Aboriginal sites or burial grounds (cited in Commissioner of the Ipperwash Inquiry, 2007, p. 21).

In their submissions to the Ipperwash Inquiry, the Chiefs of Ontario (2006) stated,

Until the fundamental issues that give rise to conflict are resolved, future protests are a certainty. How then do we each work together to avoid future tragedies? The Chiefs of Ontario submit that all levels of government would be wise to learn from past mistakes.

The province of Ontario (and Canada) has been slow to resolve the underlying issues regarding First Nations’ access to lands and resources. Unless and until these issues are addressed to the satisfaction of all parties, future conflict is inevitable. (paras. 107-108)

In Burnt Church, New Brunswick, in 2000, a violent dispute erupted over fishing rights. It was initially between local fishers and Mi’kmaq fishers, with violence initiated by locals. However, when the Royal Canadian Mounted Police (RCMP) and Department of Fisheries and Oceans (DFO) stepped in, they essentially took over the role of the local fishers involved by taking up their cause (Borrows, 2016). The RCMP and DFO used extreme force against largely unarmed civilian Mi’kmaq fishers, running over their boats with larger boats and then beating and pepper spraying them once in the water (Obomsawin, 2002). Those unarmed Mi’kmaq fishers were later charged with assaulting a peace officer and resisting arrest.

In September 2001, the terrorist attacks known as 9/11 occurred and, in the aftermath, the consequences of violent action increased, and the pressure on Indigenous activists to be peaceful activists increased along with it (Horn-Millar, 2014). Since 9/11, the use of covert measures such as spying have increased. Manuel (2017) described how both overt and covert methods have been used against Indigenous activists:

... the RCMP and national security officers have infiltrated our organisations and will use these infiltrators for information to convict us and, very often, as agents provocateurs who try to incite violence which they can use to isolate us and give the green light to the RCMP, provincial police or army to violently oppress us. Violence is the game of our oppressor. Our response is non-violent resistance. (pp. 233-234)

Proulx (2014) argued that state surveillance is part of the ongoing colonial project. Gill and Zwibel (2017) documented how the Canadian government has monitored Indigenous activists and advocates. They tell the story of how Dr. Cindy Blackstock, a children’s rights advocate who was fighting the government to provide equal funding for Indigenous children, was monitored:

... between 2009 and 2011, Dr. Blackstock was subject to extensive monitoring by Indigenous and Northern Affairs Canada (INAC)— the government department responsible for Indigenous issues—and the Department of Justice. Officials monitored her personal and professional activities on Facebook and attended between 75 and 100 of her public speaking engagements, taking detailed notes and widely distributing reports on her activities. (Gill & Zwibel, 2017, “Surveillance of Indigenous Leaders” section, para. 1)

Although Canada's Privacy Commissioner found that Canada had violated Dr. Blackstock's right to privacy, it has been reported that the practice continues (Bronskill, 2018).

The spectre of mass blockades was raised again with Idle No More in 2012 and 2013. In 2012, a rather authoritarian Conservative federal government passed legislation severely rolling back environmental laws in Canada. Though many opposed the move, it was Indigenous Peoples who really took to the streets under the Idle No More banner. Some said the reason was that they had nothing to lose, but it was also seen as a "sign of growing power and self-confidence" and that Indigenous Peoples had taken a leadership position (Saul, 2014). In the words of Indigenous scholar Pamela Palmater (2014), it was:

... a coordinated, strategic movement, not led by any elected politician, national chief, or paid executive director. It is a movement originally led by indigenous women and has been joined by grassroots First Nations leaders, Canadians, and now the world. (p. 39).

The Idle No More movement was not successful in blocking the legislation at issue. However, it again served to remind Canadians of the presence and power of Indigenous Peoples, and that the unhealthy relationship between resource extraction and the Earth is of critical importance to many Indigenous Peoples (D. Turner, 2014).

Then in 2013, in Elsipogtog, New Brunswick, 13 years after the events at nearby Burnt Church, another resource dispute erupted involving the Mi'kmaq. This dispute was over proposed drilling for fracked gas, an issue that was opposed by 69% of the New Brunswick population. The protest, composed of unarmed Indigenous and non-Indigenous people, was peaceful. Nonetheless, tactical forces were deployed with snipers, dogs, and a full array of paramilitary police equipment. Although no one was seriously injured, tension was high. In the end, the Mi'kmaq were victorious in shutting down the project (N. Klein, 2014; J. Simpson, 2017; L. Simpson, 2013).

There are many more examples than can be cited here, but the above are some of the key ones. In order to reflect on Indigenous Peoples' refusal to give up in the face of force and resistance, the words of Indigenous author Ryan McMahon (2014), in discussing Idle No More, are apt:

Without the land I am not Anishinaabe. So, if you take away the land (literally or figuratively) from my people—what are we left with? Being "Canadian?" Being "like everyone else?" Is that not genocidal? (p. 141)

### **Post-Colonial Indigenous Resurgence**

In the words of Rueben George, manager of the Tsleil-Waututh Nation Sacred Trust Initiative, "There is an Indigenous spiritual rising after the attempted genocide of our Peoples. They tried to bury us. But what they didn't know is that we're seeds and we're growing" (Treaty Alliance Against Tar Sands Expansion, 2018a, Slider bar above Events section). An Indigenous resurgence is happening all over the post-colonial world (Alfred, 2005; Corntassel, 2012). In Canada, resurgence includes court victories, growing influence over lands and resources, a rapidly growing population, and growing business and political influence (Saul, 2014). It is unclear exactly when decline turned into new ascent. Canadian intellectual John Ralston Saul traces it to the early twentieth century (Saul, 2014). Wilkes et al. (2010) traced this collective resistance through the 1800s and found that the current phase started in 1969:

... when Indigenous people successfully used mass mobilization to block the passage of the White Paper, which was federal legislation aimed at eliminating “Indian Status” and the special rights this status entails (Ramos 2008a, 2008b; Sanders 1985; York 1989). In the decades to follow, the annual number of events began to rise such that by the mid-1980s and 1990s, they were a standard feature of the Canadian national political landscape, drawing much-needed public, and political attention to long-standing grievances with deep roots in colonial history (Ramos 2006; Wilkes 2006). They have involved active and courageous struggles for change at considerable personal risk. (p. 330).

Reflecting what was certainly a change in direction and tactics, there have been several hundred direct action events or confrontations since the 1980s (Wilkes et al., 2010).

Joane Nagel (1996) attributed the Indigenous resurgence in America to the Red Power movement of the 1960s and 1970s, which “put forth an image of American Indians as victorious rather than victimized” (p. 140). Kiera Ladner (2010), an Indigenous professor, referenced a song about a strike and an eight-year-long standoff by the Gurinjii stockmen of Australia. The song is called *From Little Things Big Things Grow*, and Ladner uses it as a motif for how “the echoes of such resistance continue to inspire future generations” and how resistance has fed a sense of pride and possibility (pp. 299-300). Ladner then describes many other moments of resistance that may have seemed small or isolated at the time, but that continue to grow in ripple effect. One of those key moments was the Oka Crisis. Ladner described it as “a ‘public announcement’ of sorts, warning of the cost of action and inaction” (p. 302).

It is the cost of inaction, or following the status quo, that can be seen as the subject of this article. Ladner’s (2010) use of the term “action and inaction” is wise, as what seems like inaction—following the status quo of colonialism and dispossession of Indigenous Peoples from their lands, rights, and decision making—is in fact an action. It is simply a deliberate choice to maintain direction, regardless of where events might be heading.

### **Near-Future Climate Change Impacts**

*MacMillan Bloedel v. Mullin* (1985) was a case in which the Tla-o-qui-aht and Ahousaht First Nations in Clayoquot Sound, BC, blockaded Meares Island, an island sacred to them, in order to prevent logging there. They were supported by locals and environmentalists. The logging company, MacMillan Bloedel, then sued for an injunction against the Indigenous blockaders, and the Indigenous people responded with a suit of their own seeking an injunction against MacMillan Bloedel. The court granted both injunctions: forbidding the blockading, but also the logging. The reason was that both parties had serious interests at stake. In granting the injunction preventing logging of an area claimed by the Indigenous Peoples, Chief Justice Seaton said, “The proposal is to clearcut the area. Almost nothing will be left. I cannot think of any native right that could be exercised on lands that have recently been logged” (*MacMillan Bloedel v. Mullin*, 1985, para. 17).

Is it possible to imagine any Indigenous right that could be exercised on lands that have been recently and permanently inundated by the sea? Or burned in wildfires? To what degree can specific rights or practices be exercised on lands that have been irrevocably altered by weather patterns and never return to “normal” in our lifetimes?

*MacMillan Bloedel v. Mullin* (1985) is arguably one of the most intellectually honest cases on Indigenous law in Canada, and also one of the most conveniently ignored. Canada made significant amendments to the Constitution in 1982, with a new Constitution Act. Section 35 of that new Constitution reads, “the existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed” (Constitution Act, 1982). However, although the blockade of Meares Island happened in 1984, the court did not make its decision based on Section 35 of the Constitution. Rather, it was a rare case where the court acknowledged the simple reality that the Indigenous people at issue had never surrendered title, and therefore had a legitimate claim to the land. About the Tla-o-qui-aht and Ahousaht First Nations claim to have rights to the land, BC Chief Justice Seaton said, “The Indians have pressed their land claims in various ways for generations. The claims have not been dealt with and found invalid. They have not been dealt with at all” (*MacMillan Bloedel v. Mullin*, 1985, para. 56).

The claims of the Tla-o-qui-aht and Ahousaht First Nations have still not been dealt with to this day, as is the case for the majority of Indigenous Peoples’ land claims worldwide. Their rights to land are outstanding and unresolved, and meanwhile climate change impacts are already being felt around the world, often with the greatest impacts to Indigenous Peoples. The reason Indigenous Peoples tend to face more serious impacts is that they tend to live in the most extreme environments, often in poverty and in ways that rely on the natural world for sustenance, having been pushed to extremes by colonial processes, which claimed the best land for settlers (Nakashima et al., 2012; Raygorodetsky, 2017; N. J. Turner, 2009; Watt-Cloutier, 2015). Secret briefings to the Canadian federal government, that were made in 2016 but only recently exposed in the media, affirmed that Indigenous communities suffer more intense impacts from climate-change induced extreme weather in the North (M-D. Smith, 2016).

Sheila Watt-Cloutier (2007), an Inuit leader, described, in her testimony to the Inter-American Commission on Human Rights, how Inuit hunters have been injured and died on ice that is melting out of season or impossible to judge the safety of. Specifically, she said,

Many hunters have been killed or seriously injured after falling through ice that was traditionally known to be safe. Thinner ice also means much shorter hunting seasons as the ice forms up later and melts sooner. In turn, some ice dependent species such as ringed seals, walrus and polar bears are experiencing impacts and the Arctic Climate Impact Assessment projects that these species will likely be pushed to extinction by the end of this century. Inuit have relied on ringed seal for food and clothing for millennia. The lack of ice also has profound impacts on our communities. As the land fast ice and pack ice disappears, the coastline, where most Inuit live, is exposed to fierce storms—whole communities, such as Shishmaref in Alaska, are having to move altogether, because the storms are eroding the land out from under them.

These impacts are destroying our rights to life, health, property and means of subsistence. States that do not recognize these impacts and take action violate our human rights. (p. 2)

Additional impacts to the Inuit include houses falling into the sea as shores erode due to rising sea levels, or houses shifting as permafrost melts. Summer storage of food in permafrost cellars becomes impossible, and food itself is scarcer. Travel on ice is more challenging and dangerous, cutting people off from communities and hunting grounds (Nakashima et al., 2012; Mercer, 2018).

The Xat'súll First Nation, also known as the Soda Creek First Nation and part of the Secwépemc, or Shuswap people (who tell the *Sk'élep* story referenced herein), conducted two climate change adaptation workshops in 2012. The purpose was to develop a case study for how interior-BC First Nations could incorporate climate adaptation into planning. The resulting document, the *BC Regional Adaptation Collaborative Climate Change Adaptation Case Study*, listed many negative impacts of climate change. Key among those were decreased water supply, both in quality and quantity; loss of traditional dates for harvesting and planting, with a lack of clarity about appropriate dates for such; increased fire bans that restrict the ability to conduct sweat lodges and dry meat and fish; warming of creeks, causing a diminished ability for food fish to reproduce (e.g., salmon and trout); and a decline in quality and quantity of wild berries, fruits, and roots (Xat'súll First Nation, 2012).

The impacts on some small island developing states (SIDS) and their Indigenous populations can range from complete inundation, loss of land and property, dislocation of people, and saltwater intrusion into freshwater resources, to coastline erosion. The initial impacts of rising seas can lead to a lack of drinking water and inability to irrigate crops. The increased frequency and severity of storms can also be devastating for Indigenous Peoples and the crops and ecosystems they rely on (Tsosie, 2007). The same is true in Australia, where sea level rise and increasing cyclones may force Aboriginal people to move inland (Zander, Petheram, & Garnett, 2013).

In Hawai'i, climate change will bring risks to freshwater supplies that will impact businesses and communities. Food security will be threatened through impacts to agriculture and fisheries due to changes in ocean, mountain, and forest temperatures, and weather patterns. Coastal flooding and erosion, loss of habitat for endangered species, coral bleaching, and higher incidences diseases such as avian malaria will also impact already stressed, fractured, and threatened native plants, animals, and ecosystems. Indigenous Hawaiians still rely on native plants for many items that are part of their traditional culture such as specific woods to make calabashes for food storage, hula implements, and plant medicines (Sproat, 2016). A distinct decrease in rainfall since 1980, combined with sea level rise and concomitant salinisation of groundwater have impacted traditional agriculture in Hawai'i. Outright drought will devastate many traditional practices such as kalo cultivation. This could threaten the very ability to live in Hawai'i; for Native Hawaiians, leaving is not considered an option. This puts their very identity as Indigenous Peoples at risk (Sproat, 2016).

More generally, there will also be considerable impacts to Indigenous Peoples through forests and water. Some of the key impacts to forests will be drought, changed weather patterns, an increasing rate and severity of forest fires, and invasive pests, which no longer face temperature barriers and find stressed forests easier prey. This will impact culturally important resources such as food, landmarks, and cultural practices related to fire (Vogesser, Lynn, Daigle, Lake & Ranco, 2013). Further impacts to and through water will include changes to precipitation regimes, air and water temperatures, and increases in the frequency of extreme weather events. These will lead to permafrost thawing, earlier snow-melt, changes in regional hydrology, habitat loss, and nutrient cycling. There will also be impacts to plant and animal food species (Cozzetto et al., 2013). Seen more broadly, the sad reality of climate change is that so far the dire scientific predictions, as far as pace and severity of change, are turning out to be closest to reality (Gabbatiss, 2017), and we have just crossed the 410-ppm milestone for CO<sub>2</sub> last year (Kahn, 2017).

In a recent report, the world's top climate scientists found that the threshold for catastrophic climate change is much lower than previously believed: A 2-degree Celsius rise would lead to an increase in storms, heatwaves, droughts, and food shortages that would trigger mass migrations (Gatehouse, 2018). On October 8, 2018, the Intergovernmental Panel on Climate Change (IPCC, 2018) released a special report, titled *Global Warming of 1.5°C: An IPCC Special Report on the Impacts of Global Warming of 1.5°C Above Pre-Industrial Levels and Related Global Greenhouse Gas Emission Pathways, in the Context of Strengthening the Global Response to the Threat of Climate Change, Sustainable Development, and Efforts to Eradicate Poverty*. There was considerable discussion about the Report in the news on the day it was released and subsequently. The Guardian published a piece titled, "We Have 12 Years to Limit Climate Change Catastrophe, Warns UN" (Watts, 2018). In it, the author discusses the many dangers of failing to keep warming below 1.5-degrees Celsius, noting that "even half a degree will significantly worsen the risks of drought, floods, extreme heat and poverty for hundreds of millions of people" (Watts, 2018, para. 1). However, Watts qualifies the threat and implies that in fact the Report is understated:

Bob Ward, of the Grantham Research Institute on Climate Change, said the final document was "incredibly conservative" because it did not mention the likely rise in climate-driven refugees or the danger of tipping points that could push the world on to an irreversible path of extreme warming. (Watts, 2018, para. 20)

Watts also noted that, at the current level committed to under the Paris Agreement, the world is heading towards 3-degrees Celsius of warming, and it is not clear that countries will even meet their Paris targets (Watts, 2018). The Report addresses just that, meeting Paris targets, as it is also the first informal assessment of countries' climate pledges and opportunity for discussion during the next United Nations Framework Convention on Climate Change (UNFCCC) Conference of the Parties (COP24) in November 2018, in Katowice, Poland (IPCC, 2018). As part of the Talanoa Dialogue, the assessment "will be a crucial step for revising upwards national climate action plans needed to step up pre-2020 ambition and meet the long-term goals of the Paris Agreement" (Euro-Mediterranean Center on Climate Change [CMCC], 2018, para. 7). Climate change is not only happening, it is happening faster than predicted, and the window to act is closing (Leahy, 2018; Spratt & Dunlop, 2018). It is a threat to Indigenous Peoples (and all peoples) in many ways—cultural, land, rights, and life itself.

### **A Perfect Storm, A Policy Train Wreck**

Global warming will have a unifying effect on those who struggle against it because it is bigger than any one cause, including Indigenous rights. It is about keeping the planet livable for all of humanity (Manuel, 2017). Solidarity, reciprocal, and sympathetic blockades are a phenomenon in Indigenous blockades that has smouldered threateningly for years. There is still smoke.

As recently as 2016 and 2017, many Indigenous Peoples from around the world stood in solidarity at Standing Rock. Standing Rock was a pipeline conflict that was most heated for a number of months through summer 2016 and into the winter of 2017. It happened on the traditional territory of the Standing Rock Sioux tribe, where Energy Transfer Partners, owners of the Dakota Access Pipeline, tried to push the pipeline through without Indigenous consent (Worland, 2016). The resistance was unsuccessful, and the pipeline has been built, but the conflict generated unprecedented levels of



solidarity and has been described as having “turned into a mammoth indigenous-led spiritual mission and awakening” (Archer, 2018, para. 4). Standing Rock will be discussed further in the next section.

It is important to note that, although Indigenous blockades may seem outwardly similar to other blockades, there is often a key difference: Many roads and rail lines pass through reserve lands and, therefore, a blockade can be seen as “a legitimate denial of trespass onto First Nations lands” (Woolford, 2002, p. 104; see also Blomley, 1996). Perhaps the extremity of state responses to Indigenous blockades is because they raise, at least unconsciously, the uncomfortable question of who is really trespassing (Borrows, 2016).

Hedican (2013) referenced a quote by George Erasmus, co-chair of the 1996 Royal Commission on Aboriginal Peoples (RCAP), a report commissioned as a result of the Oka conflict. Erasmus said, “if the reality is that once more [Aboriginal] peoples’ hopes have been dashed, and that this is all for nothing, then what we say is that the people will resort to other things.” Hedican commented on that by saying, “Erasmus did not elaborate on what these ‘other things’ might be, but we could use our imagination” (p. 30). Indeed, we can. If climate change is not dealt with, and Indigenous rights to land and to govern the land are not dealt with, Indigenous Peoples, having exhausted other reasonable options, could paralyze the Western world. In the words of John Ralston Saul (2014):

By a simple decision not to cooperate, they could bring the Canadian economy in good part to a halt. This is true. And this has been threatened by some. (p. 82)

### **Converging Issues and Solidarity Blockades**

The Ipperwash Inquiry into the 1995 murder by police of Indigenous occupier Dudley George noted the potential for “converging issues” in relation to the pervasiveness of the root causes, and the possible convergence of environmentalists and others in future blockades as a “sobering realization” (Commissioner of the Ipperwash Inquiry, 2007, p. 32). Arthur Manuel (2017), Secwépemc leader and author, a powerful voice for Indigenous resurgence, noted that, in 2013, in New Brunswick, Canada, many locals had come to support a Mi’kmaq-led blockade against fracking on unceded land. They were concerned about the impacts of fracking on their environment and wanted to stand with the Indigenous people. There were also solidarity blockades in relation to Elsipogtog as far afield as Montreal, New York, and Winnipeg (“Editorial: First Nations,” 2017). Naomi Klein uses the term “blockadia” to indicate interconnected pockets of resistance and draws attention to the growing alliance of Indigenous and non-Indigenous Peoples in the fight against climate change. She quoted a non-Indigenous protestor at Elsipogtog who said, “we are united in what is most important” (N. Klein, 2014, pp. 373).

Regarding the now-failed (but possibly revived) Keystone XL pipeline, Indigenous activist Dallas Goldtooth of the Indigenous Environmental Network said that the Rosebud Sioux would also blockade in support of other nations. He summed up the reasons:

. . . what we see are fellow native people that are suffering because of [a] continued colonial process of extracting minerals and resources from our communities without our consent, . . . And so we really want to stand in solidarity, across no matter what border may be, with our indigenous brothers and sisters (cited in Boos, 2015, para. 14).

The Keystone XL pipeline also generated an unlikely alliance of what was termed “cowboys and Indians,” as ranchers and Indigenous People stood together in opposition to the project, under the banner of “Reject and Protect” (Moe, 2014).

In 2016, at the Oceti Sakowin camp at Standing Rock, blocking construction of the Dakota Access Pipeline:

... thousands of tribal nation members and allies gathered in peaceful prayer and created a powerful movement. They labeled themselves the Water Protectors, an idea rooted in the fact that we are more connected to water than we think. (Rivas, 2017, p. 65).

Standing Rock, in 2016 and 2017, reflected growing and unprecedented levels of solidarity. Protestors in Manitoba shut down a major intersection in Winnipeg during rush hour (CBC, 2016), and climate activists shut off a pipeline in solidarity (Lewis & Cryderman, 2016). On November 15, 2016, there were hundreds of actions worldwide in solidarity with Standing Rock, including Europe, India, and Japan (Milton, 2016). Manuel (2017) also described a number of these cross-connections, including how the Secwépemc flag was flying when he arrived at Standing Rock, in 2017. He also noted how many people there committed to come to his home in British Columbia to fight the Trans Mountain pipeline, in return. On the day Manuel arrived at Standing Rock, a group of American military veterans also showed up, offering support and protection from unwarranted violence that had been perpetrated against the protestors by law enforcement and private security (Osborne, 2017).

Other American tribes made a 23-tribe formal declaration of solidarity (Standing with Standing Rock), a move that may have inspired the now over 200 nation-members of the Treaty Alliance Against Tar Sands Expansion, allied against the Trans Mountain pipeline (Treaty Alliance Against Tar Sands Expansion, 2018). Some examples of the myriad further support for Standing Rock were a crowdfunding campaign that raised over a million dollars; actors who donated solar panels; benefit concerts; hundreds of thousands “checking in” on Facebook; and a Māori contingent who shot a video of a Utaina haka, symbolizing “working together for the greater good.” The Māori noted that the Māori and Sioux have been fighting the same fight since colonization (Hirschlag, 2016). There was also support for Standing Rock from Mennonites (Amstutz, 2016), unions, and Indigenous Peoples from around the world (Cultural Survival, 2017). Afterward, Standing Rock was described as the struggle that “drew together leaders and activists from Tribal communities into a powerful network of resistance that is only beginning to make its power felt” (Kennedy-Howard, 2017, para. 1).

Even Canada’s security agency, CSIS, noted, “there is strong Canadian Aboriginal support for the Standing Rock Sioux Tribe as many see similarities to their own struggles against proposed pipeline construction in Canada (Northern Gateway, Pacific Trails, Energy East, etc.)” (cited in Gill & Zwibel, 2017, “Sharing and Using the Fruits of Surveillance” section, para. 4). Although this may more rightly be the subject of a different article, with the *climate necessity* defence for blockading oil industry projects and the increasing urgency of the situation, it is unclear for how long police and government prosecutors can even hope to continue pursuing legal action against those who defy injunctions that support and protect the oil industry (Buncombe, 2018; Long & Hamilton, 2017; Quirke, 2016). Unifying arguments are also taking shape in legal and academic circles, which may well lead to greater cohesion among groups opposed to fossil fuel development. Analogies are being made more frequently to critical moral

and legal struggles of the past. Legal scholar Maxine Burkett (2016) saw analogies in the 1960s civil rights movement, as well as in the abolition of slavery. As climate narratives evolve in the public sphere, the legal and moral arguments for activism will become more persuasive (Nosek, 2017).

Burkett (2016) proposed unifying theories centered on shared core values through a grassroots environmental justice frame and drawing on the analogies of anti-slavery and civil rights. Others propose a new way of organizing the “common concern” approach used in UNFCCC negotiations, “drawing on the practices of a global movement against fossil fuel extraction and in defence of land” (Dehm, 2016, p. 160). The overlap between the arguments of Manuel, Burkett, Nosek, and Dehm have the potential to weave a new tapestry of unifying moral, ethical, and legal justifications for broad-based climate action at all levels.

Arthur Manuel (2017), in discussing the Dakota and Keystone battles against pipelines, wrote,

Indigenous peoples from north of the border have shown their active support. In the future this can be a powerful alliance in defending Indigenous lands from state and industry incursions throughout Turtle Island. That is where we are today. I cannot emphasize too often that in our struggle, we must show the same intensity as American blacks did in the 1960s. They had to march in cities across America and they filled up the jails. (p. 228)

He went on, saying of the “land defenders”:

Our battle must be as intense as the fight against racism in the American south, and against apartheid in South Africa . . . But finally, it will come from the grassroots, when we give our people the tools they need to make the change they need. They will block environmental disasters like the Red Chris Mine from destroying our lands, and pipelines from carrying the oil and bitumen that is destroying our climate, as they are doing today. They will stand their ground on their own land and send out their message for solidarity to the world. (Manuel, 2017, p. 229)

### **The Need for a New Policy**

Like all of us here on Earth, Indigenous Peoples have nowhere else to go. On top of that, Indigenous Peoples have made it clear that they have, generally, been pushed far enough. As many authors have pointed out, Indigenous blockades stem from having tried everything else (Blomley, 1996; Borrows, 2016; Hedican, 2012; Wilkes et al., 2010). Regarding climate change, Indigenous Peoples have tried everything else.

The current policy of the Canadian government, and colonial Western governments generally, is one of refusing necessary change, and therefore of allowing, or mandating by policy, the resulting chaos. National policies must change regarding Indigenous Peoples and the coming impacts of climate change. It is only just and fair that Indigenous Peoples have an equal voice in that which endangers their lives equally, if not more so.

To be clear — this article is not advocating blockades, solidarity blockades, or anything of that nature. John Borrows (2016) wisely pointed out that blockades are not always the solution, and sometimes cause more harm than good, especially to those who put them up. Indigenous legal scholar Val

Napoleon (2010) also discussed the huge personal cost that many people face for standing on a blockade, both for themselves and for future generations. For instance, the conflict at Oka in 1990 left the community scarred and divided. The Pines were not turned into a golf course, a success, but their ownership is still unresolved (Ladner, 2010; York & Pindera, 1991). In 1995, at Ipperwash Park in Ontario, Dudley George lost his life (Commissioner of the Ipperwash Inquiry, 2007; Hedican, 2012). Burnt Church, in 2000, was similar. The battle over fishing rights started years before, and the Mi'kmaq people had gone to great lengths to earn their right to fish in court. In 1999, after a long and expensive legal battle, the Supreme Court of Canada released what was known as the Marshall decision, granting the right to a commercial fishery to the Mi'kmaq. After that, the Mi'kmaq went fishing and promptly met violent resistance from local non-Indigenous fishers. That resistance led to the conflict with the state over fishing rights (Borrows, 2016). The dispute was successful in some ways, but it did not achieve the larger goal of Indigenous control over the lobster fishery and left the community divided (Borrows, 2016).

On the other hand, the blockades of fracking at Elsipogtog, which united Indigenous people and environmental activists, on an issue with majority support from the public, was successful in stopping fracking and unified the community (N. Klein, 2014; Manuel, 2017; J. Simpson, 2017; L. Simpson, 2013). In the US, Standing Rock united Indigenous people and environmental activists, who were willing to pay enormous costs in terms of personal safety, were ultimately unsuccessful in stopping that pipeline (Archer, 2018; Worland, 2016).

In the Trans Mountain dispute, the concerned Indigenous Peoples initially sought to be part of the environmental review and consultation processes and, when that failed, took their battle to court. The company continued construction of the pipeline while the matter was before the courts, so Indigenous and non-Indigenous people blockaded and protested ("Trans Mountain Pipeline," n.d.b).

Through 2017 and 2018, construction on the Trans Mountain was slowed by blockades, then stopped by the court, and now the Canadian federal government has bought it with a political promise to see it through (Clancy, 2018; Meyer, 2018b; S. Klein, 2018). It could be described as a success in stopping the pipeline, not through blockades, but by litigation. A qualified success that may yet evaporate. It can fairly be predicted that if the federal government goes through a review process and then approves the project, again without Indigenous consent, there will be further blockades, protests, and conflict.

All of the above reflects the uncertain, risky, and desperate nature of blockades. The costs can be steep, in lives, scars, and divisions that can last lifetimes. Yet, blockades and direct action become unavoidable, and inevitable, when people who are negatively affected by something are denied the power to change it.

What is the solution? Brugnach, Craps, and Dewulf found that there is a need for "collaborative governance frameworks," in order to realize the potential inherent in Indigenous decision-making regarding climate change mitigation (p. 20). That could involve using Indigenous and local knowledge, collaborating with Western scientists, and decentralising decision-making (Brugnach et al., 2017). Another, and potentially overlapping, approach is to truly implement UNDRIP. Tsosie (2007) stated that UNDRIP "articulates a basis for recognizing a right of environmental self-determination that preserves the relationship between indigenous peoples and their traditional lands" (p. 1664). UNDRIP

also represents a long and drawn out struggle by Indigenous Peoples to be recognised in international law (Manuel, 2017; Seck, 2017). The Preamble to UNDRIP states that the signatories are:

Convinced that the recognition of the rights of indigenous peoples in this Declaration will enhance harmonious and cooperative relations between the State and indigenous peoples, based on principles of justice, democracy, respect for human rights, non-discrimination and good faith. (UNDRIP, 2007, p. 6)

However, the facts so far suggest otherwise. In ongoing and recent battles, states have aligned with the oil and gas industry against Indigenous and non-Indigenous Peoples concerned about land rights, the environment, and the climate, as discussed in previous sections.

What is the alternative to chaos? While there are probably many, this article is not going to propose any new schemes. As stated above, there is already one present, “hanging in front of our faces,” as it were — that of free, prior, and informed consent. Known as FPIC and enshrined in s. 32(2) of UNDRIP (2007), FPIC mandates that Indigenous Peoples be consulted fully and then have the right to say yes or no to development that impacts their territory. Canada was slow to sign UNDRIP, and then had reservations, but under the new Trudeau-led Liberal government has withdrawn any reservations. However, Canada has not adopted it into Canadian law and is instead moving toward a “Canadian version,” where FPIC is redefined to mean less than a veto (Manuel, 2017; TRC, 2015). And yet, despite the slowness in implementing UNDRIP, some progress is being made. In British Columbia, the provincial government is giving Indigenous Peoples consent over fish farms in their territory, although not for 4 years (Hunter, 2018).

Nonetheless, is the current Canadian national model enough? Or will a grant of “consent,” which is vague or unclear as to whether or not it means a veto, simply lead to more conflict, in court and in the streets? It is difficult to imagine how anything else could result. Indigenous leaders, academics, judges, law firms, and environmentalists have called for the implementation of FPIC (Iacobucci, 2016; Manuel, 2018; Orta-Martínez & Finer, 2010). Jerome Lewis (2012) gave a short and useful eight-step process for implementing FPIC that starts with strengthening institutional capacities and ends with maintaining relationships after consent is given or refused. Sasha Boutilier (2017) gave a more in-depth study of steps to implement FPIC in Canadian law, which highlights some of the difficulties around the question of whether consent and a veto are the same thing.

Settler Canada has a duty to raise the alarm: If we continue to treat Indigenous Peoples as we have—leaving them ignored; sidelined; bought off; belittled; not at the table; consulted, but ultimately with projects going ahead regardless of their views—we may well be “turned to stone.” If all that FPIC means is a heightened level of consultation that will not solve the problem, which inevitably leads to conflict.

It is not enough to say to Indigenous Peoples that they will be granted the right to give or deny consent. Nor is it enough for Indigenous Peoples to be marginally or artificially included, as the Canadian government has done regarding Trans Mountain, by saying there would be a rigorous consultation process, but then secretly telling top bureaucrats to push the approval process through as quickly as possible (De Souza, 2018). As Shrubsole (2011) pointed out, it never works to make decisions for Indigenous Peoples:

[The] overwhelming consensus is that indigenous voices, perspectives and frameworks need to be brought into the legal and political structures that dictate a significant portion of indigenous lives. (p. 14)

If government and industry want certainty regarding projects, the only way to get that is to have complete clarity on all sides as to what consent or a veto means.

The core policy proposal of this article is that FPIC, as stated within UNDRIP, must be adopted into national laws, and there must be clarity that it means a veto. That Indigenous Peoples must be equipped to make such choices in an informed and capable manner and that in order to give legitimacy to any consent, or veto, Indigenous Peoples must be empowered to develop their own governance and decision-making structures as free from the bounds of colonialism as possible.

Not only is bringing Indigenous Peoples into the decision-making framework just and fair, it is necessary. Indigenous Peoples have demonstrated resilience and knowledge systems related to the land and environment, which will be needed for human survival in a warming world (Nakashima et al., 2012; Raygorodetsky, 2017). Indigenous Peoples have some degree of control or management over a considerable portion on the Earth's surface (this article argues they should have a higher degree of control). According to Ramos-Castillo et al. (2017):

Indigenous peoples and their traditional knowledge have an important role to play in responding to climate change. Indigenous peoples form approximately 5% of the world's population, manage 11% of the world's forest lands and customarily own, occupy or use somewhere between 22 and 65% of the world's land surface. (p. 2; see also UNDP, 2011).

Raygorodetsky (2017) and others (Davis, 2009; Umeek, 2011) also argue that while Indigenous Peoples are often on the front lines of climate change, and the most impacted, they are also critical to dealing with climate change because they have, as a generalization, preserved the connection with the Earth that will be required to move forward in a changing world. On top of resilience, control over or management of, and connection with the land, Indigenous Peoples have also demonstrated a marked ability to win in court. Whether winning title to significant portions of land or to stopping pipelines, First Nations and Indigenous Peoples around the world are rapidly becoming a legal force to be reckoned with, and already exercise some degree of control over whether projects go ahead (Pasternak, 2014; Saul, 20014; C. Smith, 2018).

In most federal states, there are already two levels of government that have the capacity to give or refuse consent regarding any given major project, according to their own processes. In Canada, although the details are often hotly disputed, both levels of government have jurisdiction over projects in different ways—as do Indigenous Peoples, although their jurisdiction is largely undefined (Gilchrist, 2018). Grand Chief Sheila North of Manitoba Keewatinowi Okimakanak echoed the voices of Indigenous Peoples all over the world when she said, “I do believe that the people that live off the land and come from the land should have a veto on rights to the resources where they come from” (cited in Meyer, 2018a).

To move forward, FPIC will need to be brought into decision-making structures and to do that Indigenous Peoples must be allowed to develop their own systems to make informed choices about

giving consent to, or using a veto regarding, projects that impact their land and rights. It must be clear that FPIC means a veto, as heightened consultation will only be a policy of continuing to resolve land and rights issues through conflict. Indigenous Peoples must also be supported in appropriate ways and be empowered to develop their own governance and decision-making structures free from the bounds of colonialism. Previous problems have been resolved, for better or worse, through the policy of discrete conflict. But that will not work for climate change. If Indigenous Peoples are not given a voice over their fate, the rest of the world should expect desperate acts from Indigenous and non-Indigenous Peoples alike.

### Conclusion

Like *Sk'elép*, who said, “I could turn you to stone” but instead allowed the strangers to pass, Indigenous Peoples have been kind to their colonizers. Patient. Yet, the colonizers have continued to try to transform them. And, when that failed, the colonizers have punished them. From residential schools, the White Paper, Indigenous overrepresentation in prisons, fighting for the rights of oil companies, to pillaging Indigenous People’s land—the process has continued through to today. But because of the pervasive, continuing, and escalating nature of climate change, it is an issue that does not readily lend itself to easy buy-offs or settlements. It must be resolved justly, or not at all. Without a change in course regarding climate change and Indigenous Peoples, the post-colonial world may well find itself paralyzed by allied, mutually supportive, interrelated, Indigenous–environmentalist–citizen blockades worldwide. All other responses are precluded by current policy.

A better way has already been mapped out: that of free, prior, and informed consent under UNDRIP (2007). The sooner governments give a true veto to Indigenous Peoples and empower them to make informed choices regarding projects and developments that affect them, through their own governance and decision-making structures, and as free from the bounds of colonialism as possible, the more social and climate outcomes will improve. The sooner governments embrace the profound changes needed to address the climate crisis, the less likely extreme Indigenous and citizen action becomes. As Led Zeppelin said, “There are two paths you can go by, but in the long run, there’s still time to change the road you’re on” (Page & Plant, 1971).

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