

WORKING TO PRESERVE

*Environmental Racism and Indigenous
Resilience in Canada*

A RAVEN Report
By Levin Chamberlain



Writer

Levin Chamberlain



Editors

Leslie Anne St. Amour

Jamie-Leigh Gonzales

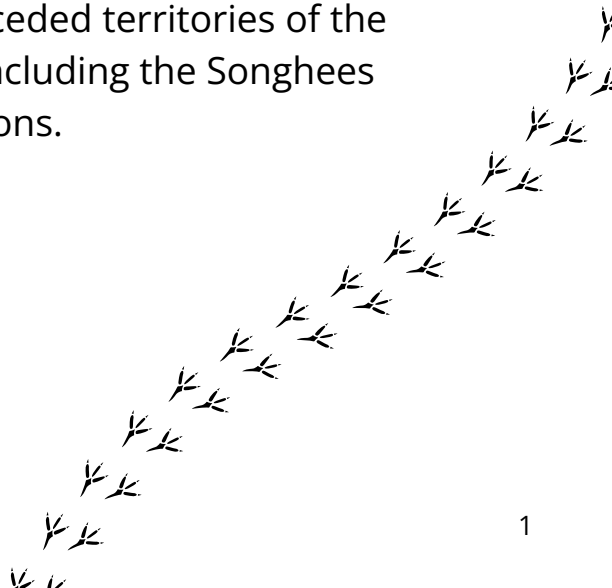
Sarah Danks

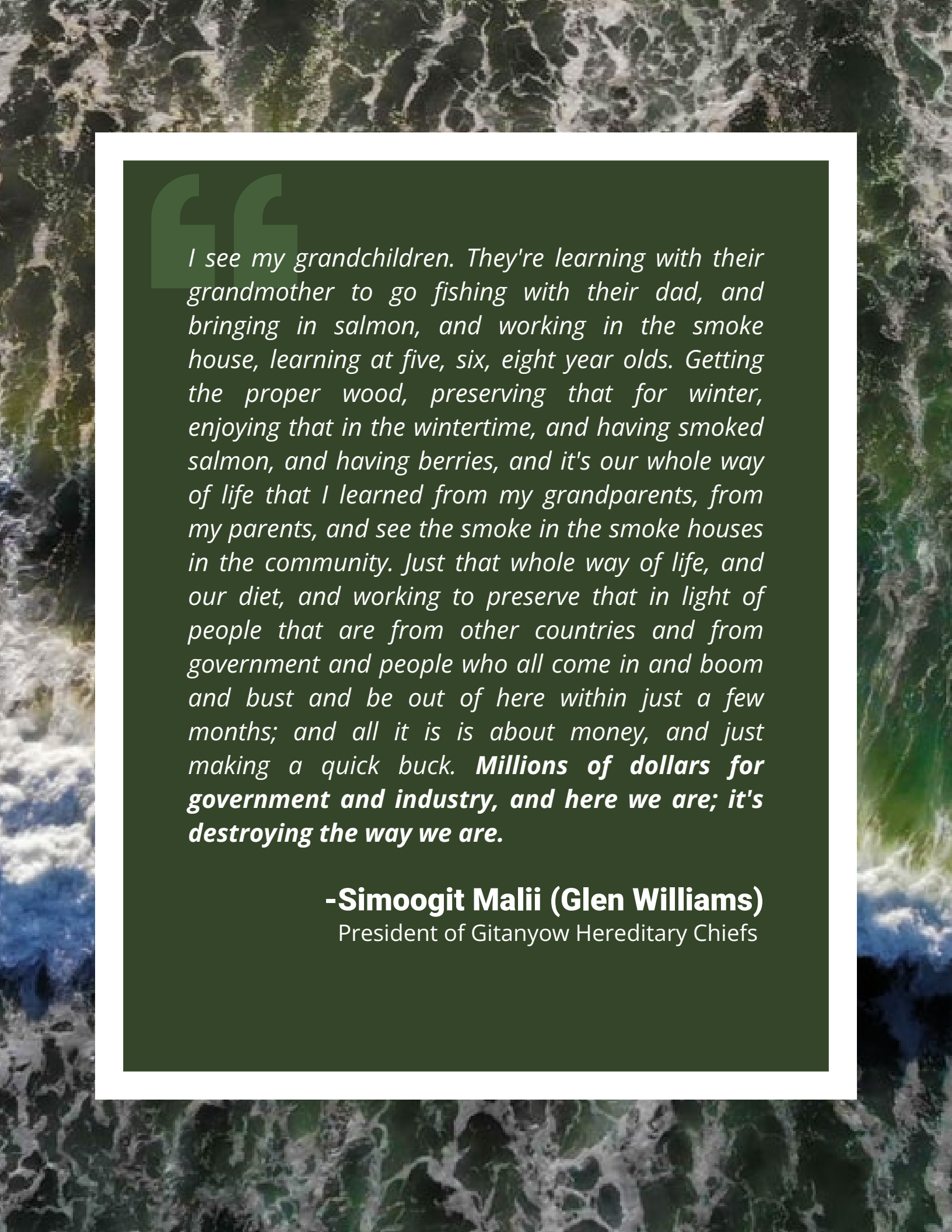
Publication Design

Sarah Danks

RAVEN is a registered charity that supports Indigenous Nations who are upholding their rights and title in court. We do this through our fundraising and public education campaigns. Indigenous-led litigation is sparking transformative change across Canada, and we are grateful to help amplify these voices and support their access to justice – creating a path toward a more just future for all. Together, we’re building a movement for lasting systemic change.

This report was written on the traditional and unceded territories of the Quw'utsun and the lək'wəŋən speaking peoples, including the Songhees Nation, Esquimalt Nation, and WSÁNEĆ First Nations.





*I see my grandchildren. They're learning with their grandmother to go fishing with their dad, and bringing in salmon, and working in the smoke house, learning at five, six, eight year olds. Getting the proper wood, preserving that for winter, enjoying that in the wintertime, and having smoked salmon, and having berries, and it's our whole way of life that I learned from my grandparents, from my parents, and see the smoke in the smoke houses in the community. Just that whole way of life, and our diet, and working to preserve that in light of people that are from other countries and from government and people who all come in and boom and bust and be out of here within just a few months; and all it is is about money, and just making a quick buck. **Millions of dollars for government and industry, and here we are; it's destroying the way we are.***

-Simoogit Malii (Glen Williams)

President of Gitanyow Hereditary Chiefs

INTRODUCTION

In June 2024, Bill C-226 received Royal Assent and became law in Canada. The *National Strategy on Environmental Racism and Environmental Justice Act (Environmental Justice Act)* is seen as a step forward in addressing environmental racism, particularly for Indigenous Peoples.

Many firsts come with a cause for celebration, but certain questions arise: why is this the first bill to address environmental racism? Why now and not decades ago? Why is there even a need for a bill that addresses environmental racism in the first place?

Environmental racism has existed in Canada for centuries. The actions of industry and government in polluting land, air, and water have severely harmed marginalized communities. Indigenous Peoples are especially affected by environmental racism in Canada.

In 2019, the UN Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes (toxics), Baskut Tuncak, said:

“*The invisible violence inflicted by toxics is an insidious burden disproportionately borne by Indigenous peoples in Canada... The disproportionate exposure to pollution is worsened by pre-existing and long-standing socio-economic inequalities resulting from Canada's colonial legacy.*¹

So, although there is a commitment in Bill C-226 for meaningful consultation with all affected persons of environmental racism – with a special emphasis on consultation with Indigenous Peoples – there are doubts this strategy will result in anything substantial. Those doubts stem from knowing the centuries-long history of colonial violence, the authorization of industry to pollute Indigenous lands near communities for profit, and many other calls to action – such as the Truth and Reconciliation Commission – being unfulfilled by all levels of Canadian government.

1. Baskut Tuncak, "Visit to Canada: Report of the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes," Human Rights Council, Forty-fifth session (14 September–2 October 2020): Sections 35 and 47.

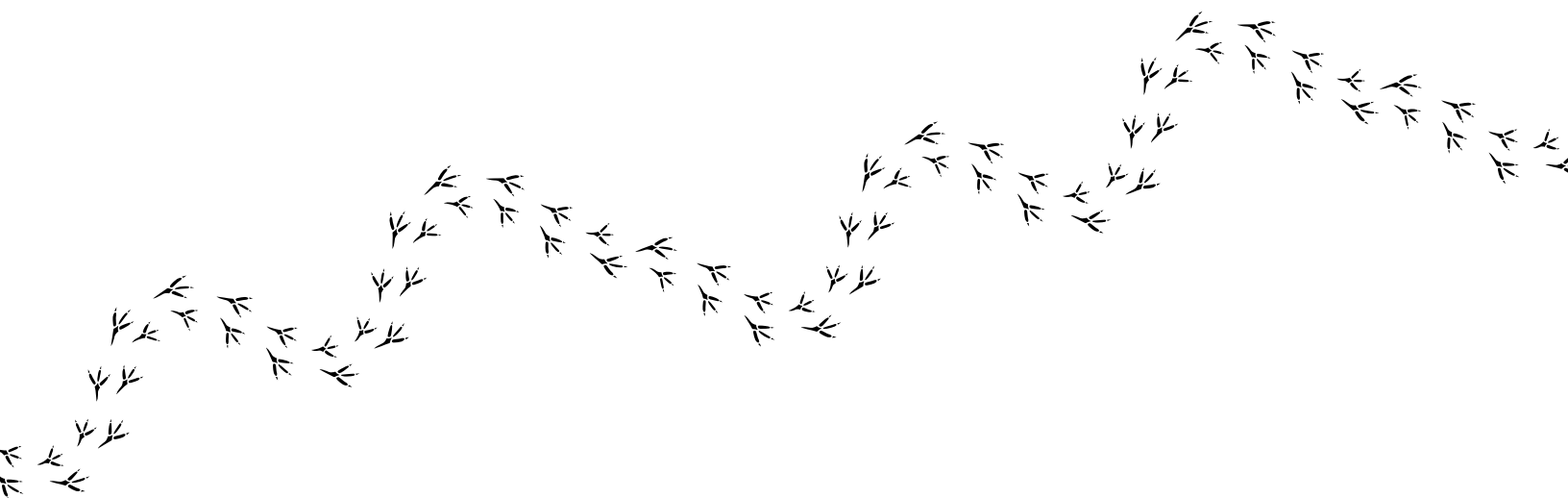
The movement to resist environmental racism started with Black communities in the United States, and Indigenous Peoples have led their own movements to resist corporate and government pollution to their lands and well-being in Canada. Systemic discrimination is a root cause of environmental racism, so meaningfully addressing it is vital for a healthy future for Indigenous Peoples, marginalized communities, and all natural relatives in a rapidly changing world.

This report attempts to be an educational tool for people to read, cite, and discuss in the movement for environmental justice. It provides essential information about environmental racism in relation to Indigenous Nations in Canada, highlighting examples from Nations that have partnered with RAVEN.

Below, we will:

1. Provide an overview of what environmental racism is;
2. Briefly learn about the theories behind colonialism that lead to environmental racism against Indigenous Peoples in Canada;
3. Provide examples of environmental racism that affect Indigenous Nations;
4. Make recommendations for governments in addressing environmental racism with Indigenous Peoples; and,
5. Leave room for further discussion.

We hope this report contributes to the growing knowledge that Indigenous ways of life – which have time and space to thrive when we prioritize land back and transferring jurisdiction to Indigenous Nations – are the solutions to environmental racism.





WHAT IS ENVIRONMENTAL RACISM?

Benjamin Chavin, a leader of the civil rights movement who worked with Martin Luther King Jr. in the United States, is credited with first coining environmental racism as a term. He describes it as:

“Racial discrimination in environmental policy-making, the enforcement of regulations and laws, the deliberate targeting of communities of colour for toxic waste facilities, the official sanctioning of the life-threatening presence of poisons and pollutants in our communities, and the history of excluding people of colour from leadership of the ecology movements.”²

As we can see, it is not one act or an individual that commits environmental racism. Rather, it is committed by a collective who passes policies and projects to allow for pollution and toxic waste to affect areas where marginalized communities live. Canadian society has largely excluded such communities from politics in history, disallowing their concerns to influence decisions about where, how, and why toxic waste is disposed of in their communities.

What is key in understanding environmental racism across Turtle Island is that it exists because of settler colonialism. Rural areas, towns, and cities that have a large white population do not experience pollution and toxic waste in the same ways that marginalized communities do. The people who have the power to prevent pollution don't allow it to happen in their own backyards, but they still want jobs from industries that do produce pollution. This gives reason for white communities to decide where, when, and how toxic waste is disposed of while marginalized communities often don't have the same power.

This is particularly true for Indigenous Peoples in Canada. Resource extractive industries – such as mining, forestry, and hydroelectric power – are often taking minerals, trees, and other resources from Indigenous territories and polluting them in the process. Cities established factories next to Indigenous communities and reserves instead of white neighbourhoods.

Since Indigenous governments have been systematically oppressed and impoverished for centuries, they didn't always have the financial, governance, or legal access to stop the pollution of their lands, waters, and air. If they did, they were often opposed by governments and corporations behind closed doors, in the courtroom, and, at times, violently on the ground; this is still common today.

2. World Economic Forum, "What is environmental racism and how can we fight it?" World Economic Forum, July 31, 2020, https://www.srtoxics.org/wp-content/uploads/2020/09/Canada-HRC-45_AUV.pdf.

The Crown (federal and provincial governments) has largely ignored Indigenous governance systems throughout history, and because Indigenous leaders weren't welcome in colonial political spaces where policy decisions have been made for over a century, they have had little decision-making power to stop corporations from extracting resources. If any environmental policies were made, they were based on settler versions of environmentalism, not Indigenous perspectives of stewardship and reciprocity for the land.

There are still policies in place that exhibit environmental racism. A great example is pointed out by [Ecojustice in their article about environmental racism](#), citing UN special rapporteur David Boyd. They say:

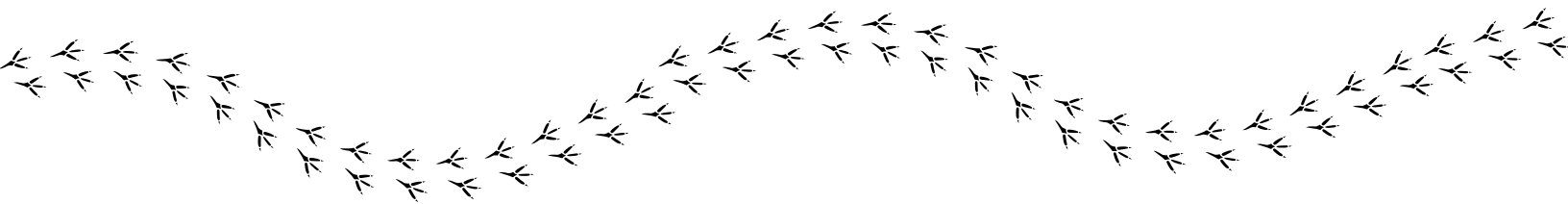
“*In B.C. ... the maximum penalties for dumping garbage or waste on Crown land range from \$2,000 to \$1,000,000. Meanwhile, the maximum penalty for dumping garbage or waste on “Indian Reserves” is only \$100.*³

In this particular example, it is the federal government's law that's deciding the fine for dumping garbage and waste on reserve lands, causing inequity to First Nations in B.C. who should have a similar law as the rest of Crown land in the province. The federal government's law is a direct result of the Indian Act, which was put in place in 1876 to essentially control Indigenous Peoples and their social, political, and resource management systems.

As John Borrows said in [Home on Native Land](#):

“*The Indian Act is trying to get us to live by someone else's rules. It's trying to replace our way of behaving with someone else's ways of behaving... It's a very narrow way of behaving, it really restricts our opportunities to govern, to hold land, to make decisions about things that are important to us. Again, it's designed to make us behave like people in 1876 in a very oppressed way.*⁴

It is obvious that the Crown has committed severe acts of environmental racism in Canada for a very long time, but why? Why would they do something that is so damaging to people and their lands? We need to dive a little deeper to get to the bottom of these questions.



3. Elaine MacDonald, "Environmental racism in Canada: What is it, what are the impacts, and what can we do about it?" Ecojustice, September 1, 2020, <https://ecojustice.ca/news/environmental-racism-in-canada/>

4. John Borrows, "Home on Native Land: Lesson 10: John Borrows," interview by Ryan MacMahon, Home on Native Land, RAVEN, March 22, 2022, <https://homeonnativeland.com/lessons/lesson-ten/>.

WHY? THEORIES BEHIND ENVIRONMENTAL RACISM AGAINST INDIGENOUS PEOPLES

In order to understand where environmental racism comes from, we need to dive back to when social Darwinism and a separation of humans and the natural world occurred. (Note that this could be a PhD thesis itself, and although we hope research will be done to further advance our understanding of environmental racism, we will only be highlighting such theories).

Throughout the Middle Ages in Europe, people started to believe that nature was separate from humans. Philosophers, such as Francis Bacon⁵, argued that "man" needed to tame nature, which was often personified as being "female." Nature was seen as unruly, messy, and disorderly. "She" needed to be put in order by "man" in a civilized way, such as agriculture. This theory not only objectified the natural world as something that needed to be conquered, but it also became widely popular. It's part of the Doctrine of Discovery and terra nullius, which gave reason for Europeans to settle across the world to steal Indigenous lands, resources, and even people to become wealthy.

In the 19th century, Charles Darwin coined the theory of evolution – we all come from one common ancestor, and that evolution over thousands and thousands of years brought greater diversity across all natural beings in nature. Social theorists, such as William Graham Sumner, also started pushing this idea that humans were more evolved than others, more commonly known now as "social Darwinism." Anglo-Saxon white men, predominantly from England, argued over which races were more evolved and put themselves at the top. They created a social hierarchy, putting Indigenous Peoples near the bottom as the least civilized and least evolved.

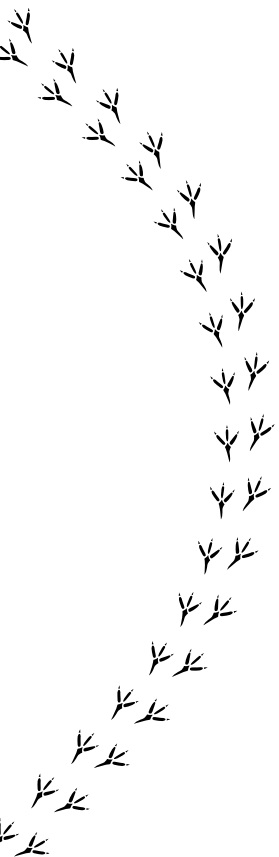
The popular perspectives around nature and social Darwinism were infused into settler society at a time when Canada was formed as a country. They are at the roots of Canadian society.

Then came the Industrial Revolution. The invention of steam-powered and fossil-fuel machinery allowed settlers to terraform the land and waters of Indigenous territories at alarming rates. As the 20th century progressed, it brought advancements in heavy machinery specifically made for resource extraction to aid settlers and their governments in becoming increasingly wealthy while Indigenous Nations were impoverished through extreme forces of oppression.

5. Kathleen Marguerite Lee and Peter Michael Urbach, "Francis Bacon: British author, philosopher, and statesman," Britannica, Nov 9, 2024, <https://www.britannica.com/biography/Francis-Bacon-Viscount-Saint-Alban>

These forces of settler colonialism are the foundations of environmental racism toward Indigenous Nations in Canada. Without viewing nature as separate and something that must be tamed, we may not have had settlers strip bare the abundant and biodiverse lands and waters that were successfully managed by Indigenous Peoples. Social Darwinism gave reason for settlers to violently displace Indigenous Peoples from their lands and waters because they weren't seen as civilized like settlers. Mix these perspectives with the power and efficiency of machinery from the Industrial Revolution and what do you get? Chemical, airborne, and other pollutants being spilt on Indigenous lands and near their communities without Indigenous Nations being able to stop it.

Now that we have a sense of what environmental racism is and where it comes from, let's look at how some Nations still encounter it today.



BEAVER LAKE CREE NATION AND THE ALBERTA OIL SANDS

Industrial development on Beaver Lake Cree Nation's territory in what is now known as northern Alberta has been extensive. Crystal Lameman, Government Relations Advisor and Treaty Coordinator for the First Nation, says:

“Canada and Alberta have far exceeded the land's capacity for industrial development in Beaver Lake's traditional territory. **The latest analysis said that more than 88% – and I know we're over that now, we must be – of Beaver Lake Cree Nation's lands have been taken up for industrial development.** That industrial development is not maintaining healthy ecosystems that's essential for the Beaver Lake Cree's right to exercise and practice our inherent Treaty rights.”⁶

A significant portion of that industrial development has been for oil and gas development. The Alberta oil sands can be easily seen from space as its refineries, tailings ponds, and black wastelands cover an area the size of England. Oil from the oil sands produces three times more emissions than conventional crude oil because of the destructive methods it takes to refine bitumen into oil – an estimated 80 megatonnes of emissions were emitted in 2021, and that's before recent studies stating the industry and government are underreporting emissions in the Alberta oil sands by up to 6,300 percent.

And that's only emissions. Producing oil in the Alberta oil sands is an extremely harmful process for the land and water of Beaver Lake Cree Nation's territory. Oil wells have drained lakes and swamps that the Beaver Lake Cree used to enjoy. Community members used to be able to drink water straight from the lake, but now, children have to be airlifted to Edmonton due to the health impacts caused by water contamination.⁸ Oil and gas companies have altered the land and waterways of Beaver Lake Cree's territory for fossil fuel extraction, polluting them in the process.

6. Crystal Lameman, "Accessing Justice: A Legal Update from Beaver Lake Cree," webinar with Levin Chamberlain, RAVEN, September 26, 2024, <https://vimeo.com/video/1013269164?activityReferer=1>.

7. Leslie Anne St.Amour, "Hot take: 6300% FALSE: Canada takes gaslighting to a whole new level," RAVEN, January 31, 2024, <https://raventrust.com/6300-false-canada-takes-gaslighting-to-a-whole-new-level/>

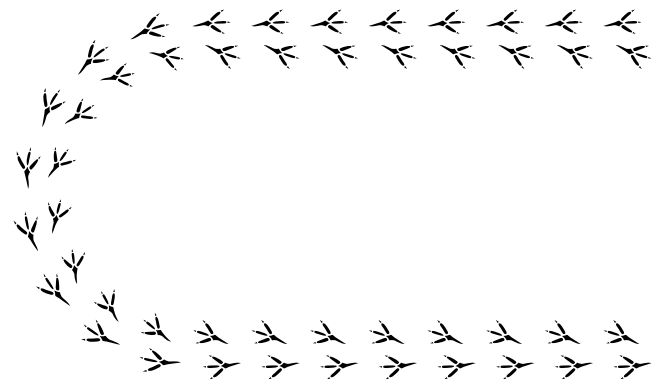
8. Crystal Lameman, "The Tar Sands Trial: The Most Important legal challenge you've never heard about," RAVEN, May 8, 2020, <https://vimeo.com/416503178>.

We can see how the foundations of environmental racism affect the Beaver Lake Cree Nation. The lands and waters of their territory were not only mineral rich – they were seen as wild and empty for settlers to tame into oil. Even when Canada acknowledged First Nations' inherent rights on their lands in the signing of Treaty 6, they were forced onto reserves and excluded from decision-making over resource extraction. This allowed Canadian governments to lease out the lands and waters of Treaty 6 to oil and gas companies, whose corporate headquarters and communities lived far away from the territories they were destroying.

People still travel from all over the world to work in the Alberta oil sands as the fossil fuel sector is one of the most wealthy industries in the world. Meanwhile, First Nations like the Beaver Lake Cree are left with tarnished lands and waters that affect their health with little say over where and how resource extraction occurs on their territory.

This, and the effects of intergenerational trauma, is causing disproportionate health effects to Beaver Lake Cree and other First Nations in Alberta. For example, Elders, knowledge keepers, and older generations of First Nations people are passing away much earlier than the average person in Canada. The average life expectancy for men who are First Nations in Alberta is 60, and for women, it's 66⁹; compared to the provincial average life expectancy for non-Indigenous men being 79 and 84 for women, it is clear that First Nations, like Beaver Lake Cree, are suffering at the hands of industry and government.

Beaver Lake Cree Nation's lived experience of environmental racism is one that worsens every day. It worsens as oil and gas expansion continues without their ability to say no. It worsens as the climate crisis continues, disproportionately impacting northern First Nations like the Beaver Lake Cree. It worsens as Alberta and Canada continue to underfund programs, move too slowly on the Truth and Reconciliation's Calls to Action, and push back against First Nations in court when they want their inherent Treaty rights recognized in the face of injustice.



9. Danielle Paradis, "First Nations life expectancy plummets in Alberta due to opioid deaths," APTN News, July 4, 2023, <https://www.aptnnews.ca/national-news/first-nations-life-expectancy-plummets-in-alberta-due-to-opioid-deaths/>.

ATTAWAPISKAT FIRST NATION AND THE VICTOR DE BEERS DIAMOND MINE

In 2005, De Beers Canada opened the Victor Diamond Mine approximately 90 kilometres west of Attawapiskat First Nation in northeastern Ontario. The company signed an Impact Benefit Agreement with the First Nation to provide economic opportunities, supply deals with businesses in the community, and a share of revenue from the open-pit diamond mine. The open-pit mine functioned until 2019 and is still being remediated.

However, during operations, the First Nation community realized that the compensation they were receiving was completely unfair. Attawapiskat First Nation received an estimated \$2.5 million per year when De Beers was recording an estimated \$400 million per year in revenue.¹⁰

That is less than 1% of the revenue generated from the mine in exchange for their land being torn up and impacting their rights. Community members from Attawapiskat First Nation blockaded the diamond mine from receiving goods multiple times during the mine's operations, demanding they receive better compensation by re-negotiating the Impact Benefit Agreement.

Former Chief Theresa Spence told APTN News at the time of the blockades that the First Nation also had concerns about "discrimination and racism at the mine, lack of employment opportunities and training programs, compensation for lost traplines and a clause in the Impact Benefit Agreement between De Beers and Attawapiskat that absolves the company from having to fork over compensation for 'unpredictable impacts' the mine could have on the environment."¹¹ This demand also came from the severe inequities that Attawapiskat First Nation faces while De Beers, an international mining company with head offices in Calgary, profits immensely from the destruction of their territory.

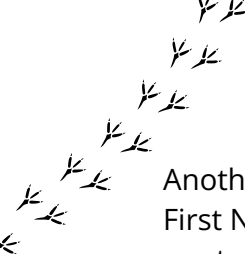
For example, Attawapiskat has had a decade-long housing crisis, where most homes have two to three generations living in them, are in need of major repairs, and have prospector tents in their backyards to accommodate more people. Alison Linklater, Grand Chief of the Mushkegowuk Council, told CTV News in 2023:

“There's houses that should be condemned. There's mold, these houses are old. You know, you have 19 people living in a home.”¹²

10. Jody Porter, "First Nations must 'learn from' De Beers deal," CBC News, February 13, 2013, <https://www.cbc.ca/news/canada/thunder-bay/first-nations-must-learn-from-de-beers-deal-1.1327592>

11. Mark Blackburn, "Attawapiskat diamond mine blockade continues, protesters eye De Beers airport," APTN News, February 6, 2013, <https://www.aptnnews.ca/national-news/attawapiskat-diamond-mine-blockade-continues-protesters-eye-de-beers-airport/>.

12. Sergio Arangio and Dan Bertrand, "Northern First Nations' housing crisis worsening," CTV News, April 8, 2023, <https://northernontario.ctvnews.ca/northern-first-nations-housing-crisis-worsening-1.6347606>



Another example is when De Beers applied for a second landfill in a wetland on Attawapiskat First Nation's territory. The mine didn't need just one landfill – they needed two for all the waste generated at the mine, which amounted to 200,000 cubic metres. For perspective, that's the size of four CN Towers. To propose it at a place of environmental significance, skirting the environmental assessment process to the dismay of Attawapiskat, just shows the disregard for the overall health and well-being of life on Attawapiskat's territory.¹³

The most prominent example of inequity that ties into environmental racism for Attawapiskat is drinking water. The First Nation has been struggling with clean drinking water since the 1980s. Homes still don't have clean drinking water despite Attawapiskat declaring a drinking water crisis in 2019.¹⁴ Yet, even with decades of water quality issues, workers at the De Beers diamond mine had clean drinking water during the mine's operation.

Why did people at the mine receive the basic human right to clean drinking water when a First Nation just 90 kilometres away doesn't? This jarring example of inequity is exactly what environmental racism perpetuates – it supports industries to destroy the lands, waters, and communities of Indigenous Peoples who are forced to suffer from its impacts while undermining their basic needs.

So, although there were some economic opportunities and supply deals with businesses in the community, De Beers did not provide nearly enough compensation and respect for Attawapiskat to properly address the impacts of the mine. To add insult to injury, De Beers violated environmental laws and regulations at the mine that have polluted Attawapiskat's land and waters.

In 2021, De Beers pleaded guilty to one count of failing to provide mercury monitoring data relating to the operation of its Victor Diamond Mine.¹⁵ **The mining company failed to report on mercury and methylmercury levels at five out of nine surface water monitoring stations over a period of seven years.** Mercury can cause severe neurological problems that are intergenerational if ingested, which is a huge risk to Attawapiskat's health and well-being as they are downriver from the mine. The company was fined \$100 and forced to donate \$50,000 to a charitable entity.

With a chemical element that is so harmful to human and environmental health, you would think that not reporting its levels for several years would have resulted in better measures with larger penalties. But, since First Nations like Attawapiskat can't make decisions over mining laws, policies, and regulations, the fines stay low enough for companies to not be accountable to the health of Indigenous lands, waters, and communities. It makes more profitable sense to break laws and pay fines than to correct actions that harm Indigenous communities.

13. The Bullet, "Attawapiskat First Nation versus De Beers Diamond Mine," Socialist Project, October 2, 2020, <https://socialistproject.ca/2020/10/attawapiskat-first-nation-vs-debeers-diamond-mine/>.

14. Isaac Phan Nay, "Attawapiskat member files UN human rights complaint over decades-long struggle for clean drinking water," Indiginews, January 25, 2024, <https://indiginews.com/news/attawapiskat-member-files-un-human-rights-complaint-over-decades-long-struggle-for-clean-drinking-water>.

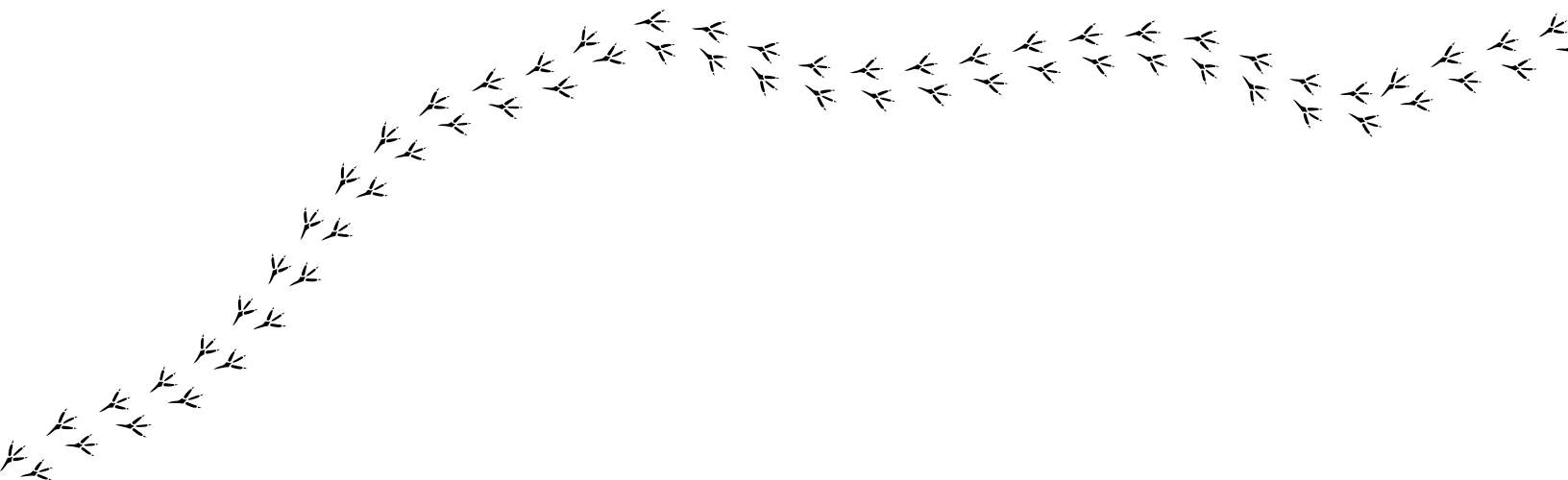
15. Anna Baggio, "De Beers pleads guilty to failing to report mercury pollution at Canadian diamond mine," Wildlands League, July 6, 2021, <https://wildlandsleague.org/news/de-beers-pleads-guilty-july-6-2021/>.

Attawapiskat First Nation only has so much say and decision-making power over where, when, and how mining occurs on their territory. Laws and regulations written thousands of kilometres away by politicians in Ontario guide what happens just 90 kilometres away from Attawapiskat. The mine itself creates pollution and waste, which ends up in the Attawapiskat River or in two major landfills. There are also several other types of pollution that occur with an open-pit diamond mine, such as tailings ponds from chemical processing and exhaust fumes from heavy-duty machinery.

What makes environmental racism apparent for many First Nations communities like Attawapiskat First Nation is that they don't have much choice over whether or not a mine is built. Under the Environmental Assessment process, companies like De Beers only need to consult First Nations over specific aspects of a mine, like how the mine will be affecting their rights. They need to compensate First Nations if a mine affects their rights, but that doesn't give a First Nation like Attawapiskat the ability to say no to the mine. It doesn't mean they can enforce their own laws and traditions onto De Beers to make sure their lands, waters, and community are safe. It means that a company can mine at the expense of a Nation's land, river, cultural sites, and health without involving them in decision-making processes.

Former Chief David Nakogee summarizes Attawapiskat's situation with the De Beers Diamond mine:

“ These expensive diamonds come from my Nation's homeland, in our backyard, and yet we continue to live in horrendous conditions where we can't even drink the water here from the taps. We keep watching the wealth of our Traditional Territory, from the waters and lands to the wildlife, get industrialized. We keep watching others walk off with the profits of that industrialization, leaving us to bear the burden and the waste. When De Beers has the money to transport, recycle and re-use materials, and to properly monitor the effects of the mine on the lakes and rivers, they must be required to do so. We will not tolerate excuses when so much is at stake.¹⁶



16. David Nakogee in The Bullet, "Attawapiskat First Nation versus De Beers Diamond Mine."

HEILTSUK NATION: THE NATHAN E. STEWART SPILL AND COMPENSATION

In 2016, the *Nathan E. Stewart* (a tug boat owned by the US-based Kirby Corporation) ran aground in Heiltsuk's ocean territory on the coast of British Columbia (B.C.). It spilt 110,000 litres of diesel oil and other pollutants on the edge of the ancient village of Q'vúqvai (known as Gale Creek) in the territory of the Q'vúqvaíáitx̓ Tribe (People of the Calm Water). Heiltsuk were first responders to the spill, but due to an inadequate response from the provincial and federal governments and Kirby Corporation, the spilled oil was not recoverable.

Tragically, Heiltsuk is now dealing with the long-term damage to the health of their land, waters, and culture as a result of the *Nathan E. Stewart* spill. When the articulated tugboat ran aground in October 2016 at Q'vúqvai (Gale Pass), their Ġvílás (traditional Heiltsuk laws) was violated.¹⁷ Ġvílás requires that Heiltsuk people follow particular obligations when engaging with natural resources that are owed not only to other humans but also to the protection and maintenance of the resources themselves. When the tugboat ran aground while travelling through the pass, an action Heiltsuk had already deemed too risky to the natural environment, it was a violation of these obligations.

The fuel spill put a stop to harvesting practices and cultural usage of Q'vúqvai. Heiltsuk families rely on harvesting clams and other local seafood to feed their families and prosper economically. The spill had and still has a devastating impact on the Heiltsuk community.

It's important to note that the articulated fuel barge could have run aground anywhere along the coast of B.C.; however, it shouldn't have been passing through Heiltsuk's territory as the Nation had sought to ban barges from crossing that particularly difficult pass.

The "world-class" spill response unit that the Canadian Coast Guard boasts about took 17 hours to arrive on the scene.¹⁸ Heiltsuk offered their traditional knowledge of the area but were ignored until late into the afternoon when it became clear that local knowledge about the area was critical. Heiltsuk responders requested booms to be laid out immediately, but their request was initially met with silence; then with the advice that booms were not on site; then with communications that the authority to lay booms was with Western Canada Marine Response Corporation (WCMRC) or Kirby, who were not at the site. When booms finally became available, there were not enough or they were damaged, and they broke apart or were washed by the oily waves when put into the water. Responders were not provided with personal protective equipment, or advised of health consequences of exposure to diesel.

17. Heiltsuk Tribal Council, and Heiltsuk Integrated Resource Management Department in partnership with West Coast Environmental Law, "Revitalizing Haítzaqv Law for Land, Air and Water: Telling the RELAW Story," https://www.wcel.org/sites/default/files/publications/heiltsuk_tellingtherelawstory_final_web_0.pdf

18. Edward Downing, "Nathan E. Stewart Oil Spill: Five Years After," *Clear Seas*, December 9, 2021, <https://clearseas.org/insights/nathan-e-stewart-oil-spill-five-years-after/>.

The lack of adequate response to the *Nathan E. Stewart* spill is a symptom of environmental racism. Responses to other spills in less remote locations are evidently quicker than the spill on Heiltsuk's territory. Crews responded to the MV Maipo River spill near Nanaimo, B.C. within 90 minutes. Providing a spill response to the largest coastline in the world is challenging, but the problem with Canada's response to the *Nathan E. Stewart* was that they were not collaborating well with the Nation to provide the equipment, training, and personnel to respond to fuel spills in their territory. Heiltsuk Nation has started their own oil spill response unit since the spill to become less reliant on the Canadian Coast Guard.

But where we really see environmental racism is in two areas: policy-making for shipping areas and cultural losses. Imagine a world where Indigenous Nations were at the decision-making table over where, when, and how ships and barges with fuel were shipping through ocean waters. The *Nathan E. Stewart* spill may have been avoided if Heiltsuk's choice to not have fuel cross their ocean territory at Gale Pass was honoured and respected. Instead, Canada goes to the International Maritime Organization, the UN body created to make decisions over shipping across the globe, as an independent country, excluding hundreds of Indigenous Nations within its borders. The only formal representation of Indigenous Nations under Canada at the IMO is the Inuit Circumpolar Council, who represent Inuit people from Russia, Alaska, and Greenland alongside Canada. The ICC invited Heiltsuk Nation to speak at the IMO about their experiences with the *Nathan E. Stewart* spill in 2024, advocating for cultural losses from spills.

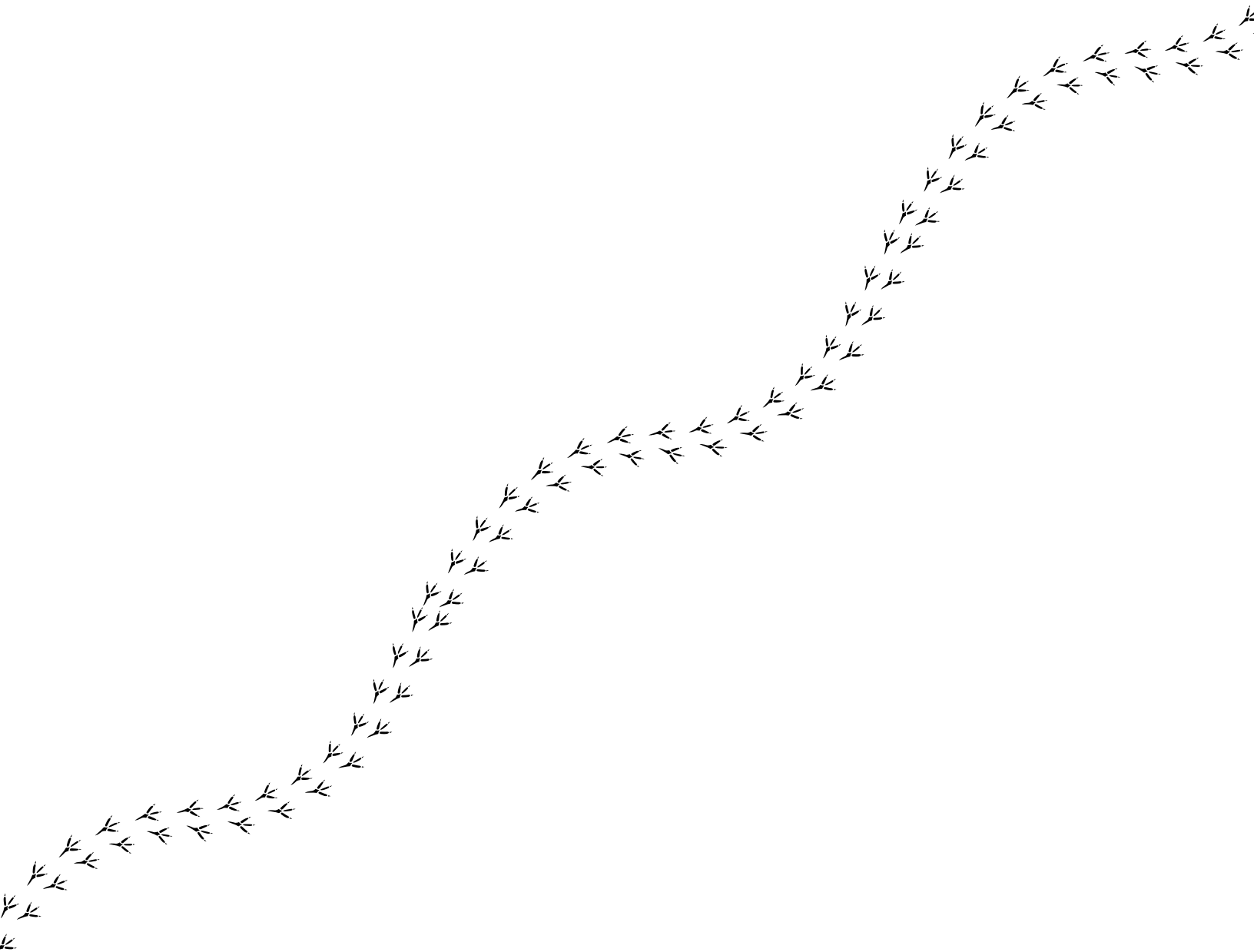
Under the current laws for receiving compensation for a fuel spill, Indigenous Nations are unable to receive compensation for cultural losses. These losses are specific to Nations as cultural practices, identities, languages, and traditions are diminished, usually by an external force. But the only way anyone can currently receive compensation from a fuel spill is for economic losses – fishing companies, private landowners, and Indigenous fisheries can receive funds, but current policies do not recognize any other forms of compensation other than economic losses.

This perspective encapsulated under the Marine Liability Act exemplifies exactly what environmental racism is. Canada's policies see remedies through an economic lens when a spill occurs. But, for Nations like Heiltsuk, they lose so much more than just economic stability – they lose thousands of years of ancestral traditions that kept that place alive while taking what they needed to survive. They lose an integral part of their cultural practices to a specific area that could have been passed down to future generations. As Louisa Jones, councilor for Heiltsuk Nation, will tell you, "We lost a part of who we are." There is no current way for them to receive any compensation for the pain, grief, and sorrow that comes from such an immense loss.

Heiltsuk Nation is a resilient Nation that will keep on advocating for their rights, territory, and culture. They won in court to assert their right to harvest spawn on kelp from herring in 1996; they occupied a commercial herring fishery when the Department of Fisheries and Oceans wanted to reopen it in 2016; they quashed the Northern Gateway Pipeline at the Federal Court of Appeal with several other Nations; they continue to push for cultural losses over oil spills at the international level.

They are a great example of how Indigenous leadership is holding companies and governments accountable for their actions to protect the ocean environment for generations to come.

Yet, even with this resistance in and out of the legal system, we still see policies that disproportionately affect Indigenous Nations and their waters from pollution and its repercussions.





CONCLUSION

Canadian culture has been slow to change its polluting ways as its roots are both racist and destructive toward nature. This deadly combination, along with technological advancements in machinery with toxic fuels, effluents, and emissions, has caused irreparable damage.

Canadian culture, however, is slowly changing. The passing of the *Environmental Justice Act*, which we touched upon at the beginning of this report, is a sign that policies are recognizing past harms and trying to move in the right direction. The Act specifically requires the federal government to create a national strategy to address environmental racism while reporting on efforts made to achieve environmental justice.¹⁹ Advocacy organizations like RAVEN can now monitor the government's actions to hold them accountable. Although the pace of politicians, lawmakers, and other institutions is painfully slow, there is a shift from the racist roots that caused this mess in the first place.

However, we cannot move forward without actual systemic change. Even bills and policies that are well-intentioned, like the Environmental Justice Act, are made within the boundaries of a political system that is designed to eliminate Indigenous cultures, ways of life, and their territories. Canada, the provinces, and the territories need to meaningfully address environmental racism by realizing they are perpetuating the systemic roots of it. We can't keep ignoring our past as a country as one that is deeply rooted in taking advantage of people and Indigenous territories for profit. Environmental racism will continue to exist if governments keep ignoring our roots, regardless of how many new bills and policies they make.

The way environmental racism shapes with policy is best seen with Asubpeeschoseewagong Anishinabek, otherwise known as Grassy Narrows First Nation. They have severe negative health effects from an estimated 10 tonnes of inorganic mercury being dumped into the English-Wabigoon River by a pulp mill in the 1960s. At the time, it was completely legal for the pulp mill to dump the inorganic mercury into the river. Now, under the Environmental Compliance Approval from the Ontario government, the mill is permitted to release wastewater into the English-Wabigoon River, as long as it meets effluent testing requirements. Unfortunately, this wastewater contains high amounts of sulfate and organic matter that reacts with the mercury on the riverbed, making it more toxic; it continues to permanently damage the health of Grassy's people and territory.²⁰

19. Canadian Association of Physicians for the Environment, "Implementing the Environmental Justice Act," <https://cape.ca/environmental-justice-act/>

#:-:text=The%20Act%20mandates%20the%20federal,racism%20and%20advance%20environmental%20justice.

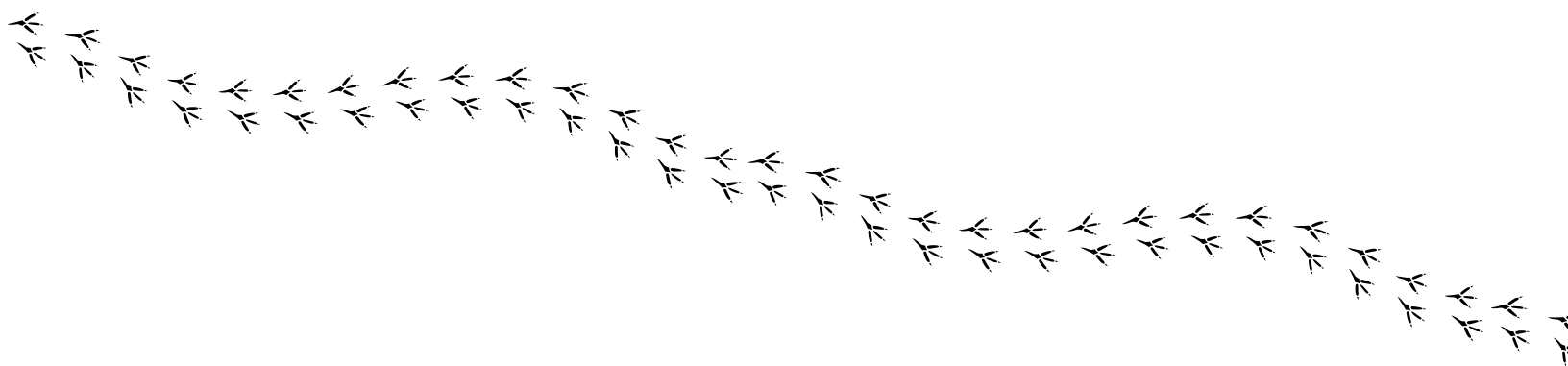
20. Sarah Law, "Mercury poisoning near Grassy Narrows First Nation worsened by industrial pollution, study suggests," CBC News, May 23, 2024, <https://www.cbc.ca/news/canada/thunder-bay/grassy-narrows-first-nation-methylmercury-study-1.7211750>

So policies addressing environmental racism within the system will not stop industry from finding ways to pollute Indigenous lands, people, and marginalized communities. They will keep trying to find loopholes, or they will blatantly do it as they will make more money by polluting than if they respect people, land, water, and air.

The changes we are seeing are not because of white communities. If industry and government weren't met with resistance by Indigenous Peoples and marginalized communities for decades, there wouldn't be changes for the better. Advocacy, direct action, and pain-staking patience have brought glimpses of hope that keep the thought of justice alive. It's with the long movements of resistance to environmental racism and all oppression that politicians are beginning to realize now through policy.

We must continue to hold governments and industry accountable to the policy changes while advocating for Indigenous sovereignty, self-determination, and legal orders. Time and space for cultural resurgence will bring new systems that don't rely on the oppression of others. Indigenous systems of governance will flow over and with current political systems to keep them in check and balance from the racist, nature-destroying roots they came from.

Together, we can stop environmental racism. It will take decades of work, but with more and more momentum behind Indigenous-led movements for a better world, there will be justice.



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