

“YOU THINK I WILL BRING
MY CHILDREN HERE?”:

*The Mount Polley Mine Disaster as
a Necropolitical Human Rights
Environmental Disaster*

NORAH BOWMAN AND TARA SCURR

THE 2014 MOUNT POLLEY Mine disaster, both a heartbreaking tragedy and an outcome of more than a century of colonial state supported extractivism, demands a human rights centred, anticolonial analysis. Extractivist economies of colonial Canada flourish through the dispossession of Indigenous Peoples from their own lands and waters and their systemic exclusion from meaningful wealth benefits provided by those same economies. In this economic logic, the scale and impact of the Mount Polley disaster extend through the ecological, the cultural, the human, and the political. Our analysis focuses on the human rights impact of the disaster. We are informed and motivated by our activist and academic knowledge of human rights violations by the mining industry in British Columbia and globally; we frame our theoretical anticolonial analysis within Achille Mbembe’s theory of necropolitics. Mbembe’s theory extends throughout the colonial world, and we find a resonance between global colonial dispossession and the way in which the Canadian state distinguishes between those deserving of wealth and protection and those assigned to suffering and exclusion.¹ Regulatory capture, a mine-permitting system that favours industry, and the systemic exclusion of Indigenous Peoples from meaningful consultation create conditions in British Columbia for necropolitical colonialism to flourish. While these conditions may shift or improve over time, we argue that a human rights analysis, attentive to the narratives and experiences of Indigenous Peoples as well as to non-Indigenous rural residents, provides a resistant and responsive way forward from the 2014 Mount Polley disaster.

¹ Achille Mbembe, *Necropolitics* (Durham, NC: Duke University Press, 2019).

As activist-scholars within settler colonial society who live in the places we research, we begin our analysis by positioning ourselves in relation to the events of 2014 and the decade since. Our summary of the events of the disaster are made within the context of our experience and draw on the findings of other researchers, particularly those considering the disaster as both a human and an environmental harm. By contextualizing complex harms within colonial history, we explicate some of the effects of regulatory capture: we understand the disaster less as a surprising accident and more as an outcome of these colonial infrastructures.

PERSONAL INTRODUCTION 1: NORAH BOWMAN

I grew up on Secwepemculecw, the unceded lands and waters of Secwepemc Nations, near the Canim Lake Indian Band. As a settler colonial person from a small forestry town, I learned to live close to the land, aware every day of seasonal changes; close to hunting, fishing, and resource extraction; and complicit with white supremacist colonial narratives that guaranteed the rights of my family to own, farm, log, and hunt the lands and waters. Reserves are close to or adjacent to towns in this region, and while Indigenous children came to school with me, the divide between Indigenous and settler colonial people was maintained through institutional and cultural racism. It was only as an adult that I learned the truth about Canada's war against Indigenous Peoples, including the violence in my community.

My relationship to resource extraction in the BC interior includes my complicity in colonial violence, my lifelong attachment to the lands and waters, and my later-learned awareness of necropolitical colonial strategies for dispossessing Indigenous Peoples of lands, waters, culture, and life. I became an anti-colonial activist as an adult; my entrance was through environmental activism, and it took me decades to understand settler colonial violence against Indigenous Peoples as concomitant with destruction of lands and waters. In 2014, I was living 450 kilometres south of Williams Lake, the closest major settler town to Mount Polley. When I saw footage of the disaster on CBC News, I knew I had to go home to the lands and waters where I was raised. The footage of the tailings flooding the creeks and waters was, to me, a horror.

So, in September of 2014, I drove to Williams Lake with Joe Daniels from British Columbia's Freshwater Alliance. We stayed at a Best Western hotel and attended an official town hall with non-Indigenous and Indigenous community members. The provincial government and

Imperial Metals had organized the information event so that residents could ask questions about the immediate after-effects of the disaster.

We listened to spin and not much more from Imperial Metals and BC government representatives. Officials from the government and the mining company assured residents that, on the one hand, the "spill" (the word "disaster" was not used at this time) would be cleaned up and that the damage was minimal, and, on the other hand, that it was impossible to know for certain whether the fish, moose, berries, or even water were safe for human consumption. Community members spoke with grief and anxiety. Daniels and I were the only non-local people present; I had contacted CBC and other news outlets, but none was interested in covering this town hall. It seemed as though the mining company and the provincial government were in total control of the flow of information, and the local people had no access to facts about water and food safety.

I wrote about this meeting in detail in my 2017 article "Our Economy Walks on the Land": Secwepemc Resistance and Resilience After the Imperial Metals Mt. Polly Tailings Storage Facility Breach." During the years between 2014 and 2023, I visited Williams Lake and met with Bev Sellars, Nuskmata (Jacinda Mack), Teena Sellars-Ogden, and other members of the Xat'sull First Nation. Over time I developed relationships with Nuskmata and Bev Sellars in particular. During our visits, we spoke and wrote and drove around, looking for lunch and meeting places, and trying to make sense of the mess of spin, lies, pleas, and facts that we could gather about what had happened and what was happening.

During this period, I met and worked with Tara Scurr in her capacity as Amnesty International investigator. I am a college professor, and while I brought my writing, note-taking, and academic research skills to the human rights response to the disaster, what keeps me coming back to it is my love for these lands, waters, and the people who care for them, and the resulting rage and grief I now feel at the ongoing effects of gold and copper mining.

PERSONAL INTRODUCTION 2: TARA SCURR

I emigrated to Canada from the United Kingdom and have called British Columbia home since I was a child. I grew up on Kwikwetlem lands in what is now known as the Coquitlam Watershed. Since 2006, I have led Amnesty International Canada's work on business and human rights and have acquired knowledge of the human rights harms associated with the Canadian mining sector. In August 2014, I was horrified to

learn of the Mount Polley Mine tailings breach. I knew the breach had occurred at the height of the region's sockeye salmon run. So famous are British Columbia's sockeye salmon, and so dramatic was the tailings dam collapse, that footage of the disaster reached my Amnesty International colleagues in the UK and across Europe. Their emails often started with some version of "How could this happen in Canada?!"— an expression reflective of Canada's successfully exported reputation for safety and respect for human rights. Within days, I was asked to dive deeper into the disaster and to report on its human rights impacts.

Before visiting the site of the disaster, I developed relationships with community members and asked them to consider providing Amnesty International with their account of the events. We also wrote to Imperial Metals, the parent company of the Mount Polley Mining Corporation (MPMC), seeking information, but it declined to respond. Before I visited the settler town of Likely, British Columbia, I met or corresponded with Secwepemc, Lhtako Dene, Tsilhqot'in, and St'at'imc Peoples as well as with local non-Indigenous community members. These relationships were built over months of cold calls, late-night discussions, negotiation, planning, and careful communication. The late Secwepemc leader Arthur Manuel mentored me as I built a pathway between human rights abuses on the part of Canadian extractives companies overseas and the unique harms of the Mount Polley disaster. Between 2014 and 2017, I met with former mine workers; Indigenous leaders and community members; settlers; regional authorities; British Columbia's then attorney general David Eby; United Nations specialists on toxins, discrimination, and corporate actors; lawyers; journalists; and mining experts. In 2017, Amnesty International Canada published a briefing on the impacts of the disaster and invited the UN Working Group (UNWG) on Business and Human Rights to visit British Columbia to learn about the disaster and to make recommendations to the government of Canada. The UNWG published its findings and recommendations in 2018. The UN Committee on the Elimination of Racial Discrimination also called on Canada to monitor the impacts of the disaster on Indigenous Peoples and to provide them with remedy. The government of Canada completely ignored both reports.

This ending and ultimate lack of justice are what disturb me the most: despite a criminal investigation into what happened on 4 August 2014, despite the recommendation of criminal charges by the Crown investigators, despite recommendations from the United Nations, despite the ongoing harms to Quesnel Lake (*Yuct ne Senxiymetkwe* as it is known in

Secwepemctsin, the language of the Secwepemc people) and the people who depend on it, and despite a hard-fought, multi-pronged fight by those affected, the mine operator has not been fined, charged, or sanctioned in any way. This corporate impunity – a story I have witnessed, researched, and campaigned against with respect to Canadian mining companies operating abroad – fuels my outrage that, a decade later, those responsible for protecting the environment and safeguarding human rights have handed Imperial Metals and its subsidiary, the Mount Polley Mining Corporation, a free pass.

As historical memory of the incident begins to fade, the collective experiences of those who lived through the disaster caution against naïve faith in political institutions to correct and remedy corporate crimes. We would be wise to heed that warning, especially as the new “gold rush” for critical minerals gathers momentum in Canada and across Indigenous territories.

THE DISASTER, THE FISH, THE PEOPLE:
A BRIEF NARRATIVE OF THE EVENTS OF 2014

Indigenous Nations who fish the Fraser River and have done so since time immemorial include the Chawathil, Chehalis, Esk’etemc, Kwawkwaw-Apilt, Leq’á:mel, Musqueam, Nlaka’pamux, Secwepemc, St’at’imc, Semiahmoo, Stó:lō, Sumas, Tsawwassen, Tsleil-Waututh, Tsilhqot’in, and Xaxli’p Peoples. They have stewarded cultural practices, technologies, legal orders, and knowledge to support a sustainable fishing practice on the riverbanks. The annual fishery is not an isolated event but, rather, a cultural act of human and non-human interdependence, part of a multi-species cycle of birth, struggle, transformation, death, and survival.

Upstream of the Fraser River, on 4 August 2014, as salmon fisheries were set to open for First Nations on unceded Secwepemc (Xatsúll) and other Indigenous territories, the storage facility at Imperial Metals’ Mount Polley Gold and Copper Mine breached its earthen walls. Unstable soil beneath the tailings shifted under the load of the earthen dam walls, spilling 25 million cubic metres of water and silt into Polley Lake and down into Hazeltine Creek. The tiny creek immediately flooded with a roar of tailings water and mining effluent containing copper, arsenic, mercury, and selenium that overturned the creek’s bull

trout gravel spawning beds.² The tailings carved an eleven-kilometre channel down the creek into Quesnel Lake, tearing bushes and trees out of the soil, and flowed through Quesnel River into the Fraser River, and from there it reached dozens of Indigenous salmon fisheries downstream. It was the “largest mine-related spill ever documented.”³ Over subsequent months, the waters of Quesnel Lake “mixed from top to bottom (called turnover),” a process that turned the “clear blue lake to an abnormal bright green color.”⁴ Recent research shows that the lake’s turbidity, a measurement of suspended particles in the water, has continued to increase each year since the disaster, raising “concerns over the seasonal mobilization of mine contaminants and their impact on aquatic ecosystems.”⁵ For those living along the western arm of the lake, this meant a complete shattering of their trust in this vital source of drinking water and food.

Prior to the disaster, Imperial Metals had applied to discharge wastewater from the tailings dam and was allowed several limited discharges between 2002 and 2005.⁶ In 2009, the company applied to discharge even more effluent because its tailings storage facility was filling up with water faster than it could handle it. The T’exełc and Xat’súll First Nations opposed any discharge of water into the environment,⁷ but environmental experts reported that the company “needed” to get rid of excess water that built up due to increased mine capacity and precipitation. During the permitting stage for the mine, Imperial Metals had promised local communities that it would never discharge tailings effluent; prior to the disaster community members

² E.L. Petticrew, S.J. Albers, S.A. Baldwin, E.C. Carmack, S.J. Dery, N. Ganter, et al., “The Impact of a Catastrophic Mine Tailings Impoundment Spill into One of North America’s Largest Fjord Lakes: Quesnel, British Columbia, Canada,” *Geophysical Research Letters* 42, no. 9 (2015): 3347–55.

³ A.K. Hamilton et al., “Seasonal Turbidity Linked to Physical Dynamics in a Deep Lake following the Catastrophic 2014 Mount Polley Mine Tailings Spill,” *Water Resources Research* 56, no. 8 (2020): 1–21.

⁴ Hamilton et al., 2.

⁵ Hamilton et al., 1.

⁶ Environmental Law Centre, University of Victoria, “Not an Act of God: The Embankment Failure at Mount Polley Mine,” a submission to the Mount Polley Independent Expert Engineering Investigation and Review Panel, Victoria, BC, University of Victoria, December 2014, https://elc.uvic.ca/wordpress/wp-content/uploads/2015/01/Mount-Polley-Engineering-Panel-Submission_2014Dec7.pdf.

⁷ Francesca Fionda, “Eight Years after the Mount Polley Disaster, Soaring Prices Mean Imperial Metals Is Gearing up to Reopen,” *Narwhal*, 4 August 2022, <https://thenarwhal.ca/mount-polley-mine-reopens/>.

had voiced their opposition to the mine’s plan to discharge water into Hazeltine Creek.⁸

Ten years after the disaster, tailings remain at the bottom of Quesnel Lake,⁹ and the mine has re-opened. In 2016, Imperial Metals applied to permanently discharge tailing waste into Quesnel Lake, and in 2022 the BC government granted that permission. Indigenous and non-Indigenous people living near Quesnel Lake protested the discharge permit, responding to every permit application, no matter how technically and legally complex. Their activism and outreach resulted in thousands of concerned citizens of British Columbia making comments on the application during the public comment period.¹⁰ In the years since 2014, we (the authors) have felt the exhaustion caused by the ongoing awareness of the disaster. We find that the fight for a clean watershed, a fight over a watershed that runs through multiple urban centres and into the Pacific Ocean, has been taken on by under-resourced, personally invested local people, with little to no support from outside media or settler colonial structures.

Non-Indigenous residents interviewed by Amnesty International expressed their view that the political calculations of politicians simply don’t work in their favour. Their strategic value to any party in an election is negligible due to the size of their tax base and their remoteness; therefore, the government of the day and subsequent governments are willing to sacrifice their rights in favour of corporate interests.¹¹ Throughout the post-disaster decade, NGOs like Amnesty International and MiningWatch Canada, provincial organizations, and local groups have been attentive, but the issue of remedy seems to have all but disappeared from the political agenda and public consciousness. We recognize, meanwhile, that for Indigenous Peoples of the Americas, this onslaught of entitlement, extraction, and disregard began five hundred years ago and that our fatigue and disappointment as human rights activists and academics is itself a sentiment of privilege.

Critiques of colonial extractivism since Robert Nixon’s 2011 *Slow Violence and the Environmentalism of the Poor* frame ecological violence as an outcome of capitalism that leaves its mark on the lives and bodies of

⁸ Denise Ryan, “Mine Waste Leak Forces Water-Use Ban on Quesnel, Cariboo River System,” *Times Colonist*, 5 August 2014, <https://www.timescolonist.com/bc-news/mine-waste-leak-forces-water-use-ban-in-cariboo-4612227>.

⁹ Hamilton et al., “Seasonal Turbidity,” 1–21.

¹⁰ G.G. Pyle et al., “Invertebrate Metal Accumulation and Toxicity from Sediments Affected by the Mount Polley Mine Disaster,” *Environmental Science and Pollution Research International* 29 (2022): 70380–395, <https://doi:10.1007/s11356-022-20677-1>.

¹¹ Amnesty International, “Interviews in Likely, BC,” July 2016–August 2021.

Indigenous Peoples and the working poor. On an economic and historic scale, mining is perhaps the most literal movement of one place's wealth to another, a centuries-long practice of harming one place and one people for the benefit of another. Nunn's 2023 paper "Repair and the 2014 Mount Polley Mine Disaster: Antirelationality, Constraint, and Legacies of Socio-Ecological Disruption in Settler Colonial British Columbia," attributes ecological destruction and colonial violence to the entrenched patterns of white supremacist colonialism. According to Nunn, the ways in which colonial capitalism creates, reifies, and reproduces racialized hierarchies produces patterns of "anti-relationality" that disrupt connective meaning between peoples, lands, and waters.¹²

Nunn situates disaster as a typical event consequent upon "the inter-related emergency of indigeneity, toxicity, care, resistance, and death that operates through ongoing legal, social, and political structures of colonialism."¹³ For Nunn, accidents like these are in fact not true "accidents" as they fall within a pattern of "strategies of governance that produce racially defined exposure to toxic geographies."¹⁴ Thus, beyond emergency responses to acute crises of toxic geographies, a critical questioning of the chronic toxicity of colonialism demands that scholars and activists "dismantl[e] the racial patterns and colonial structures that produce myriad manifestations of toxicity."¹⁵ The reverberations of health harms to Indigenous Peoples must be accounted for continuously, not only by measuring specific biocidal chemicals like the arsenic, selenium, and mercury that come from Mount Polley but also by recognizing the population-level harms resulting from loss of sovereignty. It is hard to measure levels of mercury in a fjord lake; it is even harder to measure and take responsibility for the "sociogenic hate" that marginalizes Indigenous Peoples, removing them from the safety, health, security, and benefits of citizenship afforded to settler colonial citizens (especially those who are white).¹⁶

Studies of the health effects of the Mount Polley disaster show that, as Nunn argues, "sociogenic hate," like rampant extractivism, has interlocking negative effects on Indigenous well-being. Effects on the

¹² Neil Nunn, "Repair and the 2014 Mount Polley Mine Disaster: Antirelationality, Constraint, and Legacies of Socio-Ecological Disruption in Settler Colonial British Columbia," *Environment and Planning D: Society and Space* 41, no. 5 (2023): 888–909, <https://doi.org/10.1177/02637758231198293>.

¹³ Neil Nunn, "Toxic Encounters, Settler Logics of Elimination, and the Future of a Continent," *Antipode* 50, no. 5 (2018): 1331, <https://doi.org/10.1111/anti.12403>.

¹⁴ Nunn, 1332.

¹⁵ Nunn, 1333.

¹⁶ Nunn, 1333.

Indigenous communities affected by the event reveal four key areas of impact: “environmental dispossession, emotional stress, altered dietary patterns, and changes in physical activity.”¹⁷ Forty-seven communities in the region – from Quesnel Lake through to the Fraser River watershed – reported negative impacts from the toxic spill. Furthermore, the study¹⁸ shows the interrelated nature of harm to ecosystems, Indigenous Peoples, food sources, and an already damaged relationship between state and community.¹⁹ We contextualize the Mount Polley disaster as an event embedded in the historic and far-reaching patterns of capitalist colonialism to demonstrate that it is a serious human rights violation and an example of regulatory capture.

REGULATORY CAPTURE AND NECROPOLITICAL COLONIAL GOVERNANCE

International human rights law places obligations on states to ensure that human rights are fully realized, including the right to an effective remedy when those rights are violated. Yet states and their regulatory bodies may be unduly influenced by powerful corporations whose lobbying, party fundraising, and other forms of advocacy could influence a state’s willingness to fulfill its obligations. A close relationship between the state’s regulator and a company can manifest in lax enforcement and over-reliance on corporate self-reporting.²⁰ Regulatory discretion, the model in use in British Columbia in 2014, coincided with a decrease in geotechnical inspections of mines in this province, including the Mount Polley Mine.²¹ This led to an over-reliance on corporate cooperation, self-reporting (which includes contracting out environmental monitoring to industry professionals), and state-industry agreements. Voluntary compliance mechanisms and performance-based regulation undermine

¹⁷ Janis Shandro, Laura Jokinen, Alison Stockwell, Francesco Mazzei, and Mirko S. Winkler, “Risks and Impacts to First Nation Health and the Mount Polley Mine Tailings Dam Failure.” *International Journal of Indigenous Health* 12, no. 2 (2017): 84.

¹⁸ First Nations Health Authority, “Mount Polley Health Impact Assessment,” 28 July 2016, <https://www.fnha.ca/about/news-and-events/news/mount-polley-health-impact-assessment>.

¹⁹ Shandro et al., 84–88.

²⁰ Karen Campbell, Alan Young, and Lisa Sumi, “Undermining the Law: Addressing the Crisis in Compliance with Environmental Mining Laws,” *West Coast Environmental Law*, 1 December 2001, <https://www.wcel.org/sites/default/files/publications/Undermining%20the%20Law%20-%20Addressing%20the%20Crisis%20in%20Compliance%20with%20Environmental%20Mining%20Laws.pdf>.

²¹ Rebecca Schmidt and Colin Scott, “Regulatory Discretion: Structuring Power in the Era of Regulatory Capitalism,” *Legal Studies* 41, no. 3 (2021): 454–73.

the regulator's obligations to protect international human rights and, instead, further entrenches regulatory capture.²²

In such an instance, the agency or government body that should be monitoring industry safety becomes unduly influenced by the industry and ceases to regulate in the public interest. In the context of a capitalist democratic state in which private industry may flourish alongside the well-being of a citizenry, there will always be tension between the interest of industry and the interest of the public. Regulatory capture might be difficult to discern; industrial wealth might produce local wealth, tax wealth, or critical public infrastructure. Broadly, the problems of corporate regulation and freedom in the context of a supposedly protected populace may be understood under the category of corporate capture. Furthermore, the corporate model is antithetical to the right to remedy because the act of admitting to human rights harms and providing remedy exposes companies to liability and reputational harm.²³ This model is not only antithetical to a government that protects its citizens, it is also counter to the very premise of a representational democracy. In colonial capitalism, the promise of wealth is that it will ensure some safety for settler-colonizers; however, the practice of regulatory capture imbricated with extractivism ultimately reduces the capacity of a state to regulate the safety of all humans.

In 2016, the Audit of Compliance and Enforcement of the Mining Sector, put out by British Columbia's auditor general Carol Bellringer, found that regulatory capture was well entrenched in ministerial relations with mining corporations across the province.²⁴ This included mining permits and permits to discharge waste. British Columbia had recently made a "great play of how Declaration of the Rights of Indigenous Peoples Act (DRIPA) would position the province as a leader in the implementation of UNDRIP [United Nations Declaration on the Rights of Indigenous Peoples]."²⁵ The Office of the Attorney General (OAG) named British Columbia's mining industry as guilty of regulatory capture and of compromising the colonial state's attempts at reconciliation with

²² Calvin Sandborn, "Maintaining Natural BC for Our Children: Selected Law Reform Proposals," Environmental Law Centre, University of Victoria, 2012, 44–46, https://elc.uvic.ca/wordpress/wp-content/uploads/2014/08/2013-MaintainingNaturalBC_WEB-VERSION.pdf.

²³ Amnesty International, "Injustice Incorporated: Advancing the Right to Remedy for Corporate Abuses of Human Rights," 7 March 2014, 208, <https://www.amnesty.org/en/documents/pol30/001/2014/en/>.

²⁴ Carol Bellringer, "An Audit of Compliance and Enforcement of the Mining Sector," Office of the Auditor General, Victoria, BC, May 2016, <https://www.bcauditor.com/sites/default/files/publications/reports/OAGBC%20Mining%20Report%20FINAL.pdf>.

²⁵ Bellringer, 11.

Indigenous Peoples. Bellringer recommended that British Columbia’s mining legislation drive compliance with and enforcement of activities in the sector independently of the organizational structure of the Ministry of Energy and Mines (MEM) as the latter was what enabled regulatory capture. The 2016 audit concluded that the ministry had failed to develop “a compliance and enforcement program,” leaving most MEM resources “devoted to supporting the development of mining through processing permits for new and existing mines.”²⁶ The audit found that MEM’s stated mandate of “promoting” mining in British Columbia, along with its lack of robust compliance and enforcement infrastructure, contributed to conditions conducive to “the risk of regulatory capture for the ministry.”²⁷ Government bodies meant to protect the well-being of the public (including ecological protections) were, in fact, working to smooth the way for the mining industry. Regulations flowing from such a practice would in all likelihood be biased towards the sustenance of mines rather than towards the well-being of the public and public lands and waters.

In British Columbia’s colonial context, regulatory capture overlays and strengthens conditions for the non-consensual use of Indigenous lands and waters. A 2021 report by the non-profit organization BC Mining Law Reform lists eight recent cases in which mining projects in British Columbia fail to meet *DRIPA* standard for free, prior, and informed consent (FPIC).²⁸ In British Columbia, the *Mineral Tenure Act* allows for a person, a partnership, or a corporation to lay a mineral claim without requiring Indigenous consent; this legal loophole means that, in the mining industry, consultation and consent may be sought well after a mineral claim has been made. In fact, according to the *Mineral Tenure Act*, a claimant may register a mining claim on First Nations territory online, without the consent of, and without notifying, the First Nation.²⁹ As an example of corporate capture encapsulated within colonial extractivism, a First Nation governance body usually finds out about a proposed mining claim only after the BC government has approved it.³⁰ Once the claim has been purchased by the proponent, if a First Nation contests it the province has few options to remove it. Obviously, this conflict, embedded in nineteenth-century colonial law

²⁶ Bellringer, 22.

²⁷ Bellringer, 22.

²⁸ BC Mining Law Reform, “BC Fails to Meet Indigenous Consent Standard for Mining – 8 Recent Cases,” MiningWatch Canada, November 2021, <https://reformbcmining.ca/wp-content/uploads/2021/11/BCMLR-failing-FPIC-report.pdf>.

²⁹ BC Mining Law Reform.

³⁰ BC Mining Law Reform.

and in conflict with *DRIPA*, benefits colonial land claims and forces Indigenous Peoples into lengthy, defensive, and legally expensive positions. The MPMC obtained a permit from the BC government to permanently release effluent into Quesnel Lake. The toxicity of the colonial regulatory process resulted, in this case, in effluent in our watersheds.

In 2017, the effects of resource extraction on the lives of Indigenous Peoples came to the attention of the United Nations Convention on the Elimination of Racial Discrimination (CERD). CERD is overseen by an expert committee that periodically reviews signatory states' compliance (including Canada's) and, where needed, issues decisions, recommendations, and letters. States have a right to respond to the body's recommendations. In 2017, CERD called on Canada to respect the rights of Indigenous Peoples in the context of resource extraction. The report states:

Violations of the land rights of Indigenous peoples continue in the State party [Canada]; in particular, environmentally destructive decisions for resource development which affect their lives and territories continue to be undertaken without the free, prior, and informed consent of Indigenous Peoples, resulting in breaches of treaty obligations and international human rights law.³¹

That is to say, regulatory capture allows for project approval outside of Indigenous consent, thus enabling a clear violation of UNDRIP, an agreement meant to enshrine and protect Indigenous Peoples so that they may thrive on their lands while availing themselves of the same rights that Canada has agreed should be guaranteed for all. The Mount Polley disaster, in this context, violates the rights of Indigenous Peoples. The CERD report describes the Mount Polley disaster as having a “disproportionate and devastating impact on the water quality, food such as fish, fish habitats, traditional medicines, and health of Indigenous peoples in the area” and recommends that Canada end the “substitution of costly legal challenges as post facto resource in place of obtaining free, prior, and informed consent.”³² Furthermore, CERD calls on Canada to publicly release the results of government studies and the criminal

³¹ International Convention on the Elimination of All Forms of Racial Discrimination, “Concluding Observations on the Combined Twenty-First to Twenty-Third Periodic Reports of Canada: Addendum,” information received from Canada on follow-up to the concluding observations, United Nations, 17 June 2019, <https://digitallibrary.un.org/record/3862834#record-files-collapse-header>.

³² International Convention on the Elimination of All Forms of Racial Discrimination.

investigation into the Mount Polley disaster and to monitor and take measures to mitigate the health impacts of the disaster on Indigenous Peoples' access to safe water, food, health care, remedies, and reparations. As of 2024, Canada has failed on every count.

INVESTIGATING THE MOUNT POLLEY DISASTER AS A HUMAN RIGHTS DISASTER

The CERD report identifies the scale of the Mount Polley disaster as a human rights violation and racial justice issue. At every turn, the public good, the rights of Indigenous Peoples, the well-being and safety of downstream communities, and the health of other living beings were at best marginally considered in corporate and colonial responses to the disaster. Interviews with local government officials, reviews of company records, a literature review, and interviews with former mine workers and residents reveal that the MPMC did not have a publicly communicated, robust emergency plan in place in the event of a disaster. Most residents and Indigenous communities learned about the disaster via social media.³³ Many local people were camping, hunting, and food-gathering on the land that August long weekend when the tailings wall failed; their safety was not protected through emergency communications, nor was there any evidence of a plan for protecting people already on the land.³⁴

Author Tara Scurr was part of a delegation of human rights observers from the international charity Amnesty International that travelled to Secwepemc, Lhtako Dene, and Tsilhqot'in territories to meet with residents and research the human rights impacts of the disaster. The request and invitation, made by Indigenous leaders, including the late Secwepemc activist and leader Arthur Manuel, was to shine Amnesty International's global spotlight on an unfolding human rights disaster. Upon arrival in Likely, a tiny settler village (population 350) situated at the delta of Quesnel Lake and Quesnel River, Amnesty International was initially met with a degree of skepticism. The unincorporated town, founded in 1923, is one of the last original gold rush towns on the Cariboo gold rush trail. Most people in the town rely on income generated from the mine: the motel and hotel, cafes, general store, cleaners, sub-contractors, and the mine itself. People in Likely pride

³³ Nuskmata (Jacinda Mack), testimony to the UN Working Group on Business and Human Rights, May 2017, Williams Lake, BC.

³⁴ Final Report Mount Polley Mining Corporation Master Technical Assessment Review, <https://www.documentcloud.org/documents/1262983-final-report-mPMC-master-ta-review-jun21-201121> June 2011.

themselves on being self-sufficient, hardworking, and independent. To that end, some locals were at first reticent to welcome Amnesty International's investigation because it wasn't clear to them how the disaster was a human rights issue that affected their enjoyment of their universal human rights. Some of the settlers confessed that they felt that speaking to Amnesty International seemed risky to their careers and their standing in the community. Care was taken to provide community members with safety and privacy during interviews, and Amnesty International honoured requests to anonymize interviews. Many settler locals did not initially view their experience of the disaster as part of a pattern of corporate human rights abuses and violations of fundamental rights; rather, the common view was that mining brought prosperity and good to communities that would otherwise have few opportunities. In this framing, the disaster was merely an unfortunate event.

Furthermore, locals believed that a wealthy, developed nation like Canada had laws in place to protect people and the environment from industrial harm in the form of a clear, fully financed "polluter-pays" policy. Over time, as concerns about the health effects of the disaster grew, Amnesty International noted a shift on the part of locals towards, if not a radical critique of corporate exploitation, at least an increased understanding that their exposure to mining harms came with little to no systemic human rights protection.

In their 2016 communications with Amnesty International, some non-Indigenous community members said that they had expected the government to take care of them after the disaster. They pointed to other communities that had received financial compensation after natural disasters and said that they had expected the government to do the same for them, to at least compensate local businesses for their significant losses.³⁵ Most settler residents assumed that, after the disaster was cleaned up, the mine would reopen with stronger monitoring and compliance enforcement. Some were nonetheless suspicious of the government's and company's motivations, noting that Imperial Metals had used the disaster to pressure for a permit to open its Red Chris Mine in Tahltan Nation territory, saying that it needed profits from that mine to pay for its cleanup costs at Mount Polley.³⁶ In the end, BC residents were on the hook for \$23.6 million of the \$67.4 million initial cleanup bill. As recorded in the 2014 "Imperial Metals Third Quarter Financial

³⁵ Amnesty International, interviews, Likely and Williams Lake, 2016.

³⁶ Amnesty International.

Results,³⁷ BC residents paid thirty-five cents of every dollar spent by Imperial Metals on the cleanup.

Some of the short-term and anticipated long-term impacts of the disaster on human health were documented in a 2016 First Nations Health Authority report. The report identifies a number of immediate impacts on Xatsúll, T'exelc, and Lhaktko Dene First Nations, including a loss of "access to sacred land and territory, traditional food sources and medicine."³⁸ This loss of access leaves First Nations and settler people unsure of the long-term effects of the mining disaster on land and food sources. Furthermore, the lack of government and corporate transparency increased distrust in the safety of water and plants near the spill site. All three directly affected First Nations experienced "continued emotional stress in relation to the spill" and an ongoing "level of uncertainty and lack of trust in the information provided."³⁹ As a result, across all three First Nations, there has been a marked drop in Indigenous access to fish and cultural fishing practice, which means a change in diet and a reduction in year-round physical activity.⁴⁰ Overall community stress is compounded by the increased administrative burden placed on Indigenous and non-Indigenous community leaders: Indigenous leaders are already facing sometimes overwhelming demands for participation in settler colonial governance, and the disaster created extra demands without providing additional administrative resources.⁴¹

Furthermore, probably because of publicity related to UNDRIP and the Truth and Reconciliation recommendations, settler residents assumed that the local Indigenous Peoples had the political capital and legal power to press government to provide a remedy.⁴² During Amnesty International's early visits to Likely, settler residents told the authors of this article that the T'exelc and Xatsúll First Nations were "the only ones the government listens to" and that they would make sure their own peoples' rights were taken care of. Ultimately, local activists were dismayed to learn that the government wouldn't listen to Indigenous leaders either and, in fact, never had.

Both T'exelc and Xatsúll First Nations had vigorously opposed the mine, which had been permitted without meaningful consultation and without meeting the standard of free, prior, and informed consent,

³⁷ Imperial Metals, "Imperial Metals Third Quarter Financial Results," <https://imperialmetals.com/assets/docs/q3-2014-fs.pdf> November 2014.

³⁸ Shandro et al., "Health Impact Assessment."

³⁹ Shandro, 9.

⁴⁰ Shandro, 10–12.

⁴¹ Shandro, 9.

⁴² Amnesty International, "interviews with residents of Likely and Mitchell Bay, 2016.

neither of which is legally required to stake a mineral claim in British Columbia. To ensure that future discussions about the mine did not exclude them and to obtain corporate recognition of their title and rights as well as some economic benefits from development in the territory, the T'exelc First Nation signed a participation agreement with the Mount Polley Mining Corporation.⁴³ In 2013, the band councils of T'exelc and Xat'sull signed revenue-sharing agreements with the company. The first revenue-sharing cheque received by the Xat'sull First Nation in 2014 totalled a mere \$4,500.⁴⁴ Certainly, this is not the wealth of gold and copper mineral extraction, and even if the amount were higher, First Nations had not agreed either to the mine or to its attendant polluting effluents.

Despite government assertions that BC mines were among the safest and most monitored mines in the world, locals knew prior to 2014 that there were safety concerns at the Mount Polley Mine. Provincial inspection budgets had been reduced and mine inspections were few; self-monitoring and reporting were the norm. At the mine itself, former workers told Amnesty International that their health and safety concerns were routinely ignored. One worker reported that he had faced repression from other workers after he raised safety concerns, leading him to quit his job and leave the community. Other workers complained that safety practices were not taken seriously and that they were not in the least surprised when the tailings pond breached.

In 2017, prior to the CERD report on Canada, the UNWG visited Canada to assess its compliance with the UN Guiding Principles on Business and Human Rights. These principles were passed unanimously by the UN Human Rights Council in 2011: they provide businesses and governments with a "protect, respect, remedy" framework for corporate human rights responsibility.⁴⁵ The UNWG's agenda included a visit to Williams Lake to learn about the human rights impacts of the Mount Polley Mine disaster from directly affected people. Williams Lake, a small town of 10,700 people, is the nearest colonial administrative centre to Quesnel Lake. Both authors of this article were in attendance for the full day of investigation and hearings. Indigenous and non-Indigenous

⁴³ Monica Lamb-Yorski, "Agreement Establishes Relationships: Chief," *Williams Lake Tribune*, 8 February 2012, <https://www.wltribune.com/news/agreement-establishes-relationships-chief-5470460>.

⁴⁴ MiningWatch Canada, "Submission to the Independent Engineering Investigation and Review Panel," 7 December 2014, 11, <https://www.mountpolleyreviewpanel.ca/>.

⁴⁵ United Nations Human Rights Office of the High Commissioner, "Guiding Principles on Business and Human Rights," New York and Geneva, 2011, https://www.ohchr.org/sites/default/files/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf.

community members who rely on the Fraser River came forward to present oral and written testimony about the impact of mining and the 2014 tailings spill on their communities.⁴⁶ One of these speakers was Secwepemc woman Teena Sellars-Ogden, whose home territory includes the Quesnel Lake watershed. Sellars-Ogden once worked at the Mount Polley Mine as an environmental monitor. Speaking of her connection to the land and her struggle to adjust to the immensity of the effects of the 2014 disaster, she testified: "I was raised close to the land, fishing and berry picking. I learned about the land and the culture. I listened to the Elders. And I saw the grief and sadness that brought them."⁴⁷ As a traditional land user, Sellars-Ogden recalled that she would often spot moose tracks close to the area where Hazeltine Creek emptied into Quesnel Lake. Before the disaster, the creek was a narrow waterway that could be crossed in one long jump. As a result of the tailings breach, Hazeltine Creek and the surrounding bush became a desolate landscape devoid of food for moose, bear, or humans. The millions of cubic litres of mine waste mixed with tailings storage water tore an eleven-kilometre swath of mud and rock down the creek to the shores of Quesnel Lake. Sellars-Ogden's testimony, presented as a personal narrative of relations with Elders, land, berries, moose, and water, called forth a rich biome of human and non-human existence. In contrast, the destruction brought about by the disaster and by the ongoing release of effluents created a bio-political space of non-life: the mine is a space for profit and wealth but not for life.

Speaking to the UNWG about the scale of the disaster, Sellars-Ogden said, in reference to the entangled, living territory, that "the disaster is like another Chernobyl for me. I cannot see it, it recycles with the lake, under the water. You think I will bring my children there?"⁴⁸ On the eve of the fifth anniversary of the disaster, she told APTN National News that, even if she did find moose tracks at the site, she doubted she would ever eat a moose from that area again.⁴⁹ Here Sellars-Ogden narrates the true scope of the damage: traditional knowledge of animals and the land cannot adapt to the disaster; intergenerational teaching and learning about the lands and waters cannot occur after the disaster; and

⁴⁶ Norah Bowman, "Our Economy Walks on the Land': Secwepemc Resistance and Resilience After the Imperial Metals Mt. Polley Tailings Storage Facility Breach," *Canadian Review of Comparative Literature/Revue Canadienne de Littérature Comparée* 44, no. 1 (2017): 25–35.

⁴⁷ Tara Scurr, "Notes from UNWG Meeting in Williams Lake," 2017, 3.

⁴⁸ Scurr, 2017.

⁴⁹ Laurie Hamelin, "'This Isn't Finished': 5 Years after the Mount Polley Disaster, Still No Charges," APTN National News, 24 July 2019, <https://www.aptnnews.ca/national-news/this-isnt-finished-5-years-after-the-mount-polley-disaster-still-no-charges/>.

the animals themselves, fellow creatures interdependent with the lands and waters, are no longer present. The mining disaster is a necropolitical event and a human rights event for the entirety of Indigenous life, culture, and existence on traditional territory.

The lack of publicly accessible information about the potential toxicity of the disaster, the lack of easy access to testing results for water and sediments, and the pre-existing generations of distrust between Indigenous Peoples and settler authorities exacerbated the damage. In relations harmed by lack of transparency and obfuscation, local people were unable to discern whether they could trust the safety of plants and animals in the watershed. Even if the foods were safe, people had no way to know this for certain. These foods are beings (huckleberry, saskatoon berry, salmon, moose, and bear) whose very existence has long formed the heart of Indigenous Peoples' cultures and practices on their unceded and traditional lands. This means that the invisibility, the presence, and the lies about the effects of the disaster have created significant long-term harm to the well-being of Indigenous Peoples.

The timing of the disaster also interrupted an important cultural food collection season. August is the peak of summertime land and water-based activities: berry picking, salmon fishing, and camping. The salmon were returning to the waters of their birth to spawn. In her testimony to the UNWG, Secwepemc author and former Xat'sull Chief Bev Sellars reflected on the long-term effects of the mining disaster. She explained to the UNWG commissioners that Mother Earth is connected "like a spiders' web."⁵⁰ A tiny touch to one place is felt throughout the lands and waters.

As a result of genuine concern, as well as corporate and government lack of clarity regarding toxicity and general lack of regard for Indigenous food systems, several Nations took the difficult decision to close their local fisheries and asked people not to go out onto the land to fish and practise cultural traditions, not to pick berries or medicines from the inundation zone. "We had a community meeting over at the Williams Lake Indian Band and the tears and the heartache, people just crying, worried about the spill and what it's going to do to the salmon," former Xat'sull Chief Bev Sellars told the media.⁵¹ "The Quesnel Lake area is the area where we go and find certain medicines and plants that we can't find in other parts of our territory. That's a real worry and concern."⁵² Every

⁵⁰ Tara Scurr, "UNWG meeting Notes, Williams Lake," 2017.

⁵¹ Ryan, "Mine Waste Leak."

⁵² Ryan.

person interviewed by Amnesty International in 2016 and 2017, and those who spoke during subsequent public events, narrated significant personal and community emotional stress and trauma engendered by these losses. Yet government and corporate representatives appeared unable to grasp the significance of losing access to healthy sources of food, water, medicines, and recreation. Not long after the disaster, they told the communities that the water was safe to drink and stopped providing bottled drinking water. This forced people to buy their own (expensive) bottled water and invest in costly water filters on their water intake systems or risk their long-term health and mental well-being by drinking unfiltered water from the area. The company provided a one-time, small amount of canned salmon to affected Indigenous communities, leaving other First Nations to share their own precious salmon supplies out of solidarity and concern, particularly for the well-being of Elders who, in their traditional diets, rely on healthy fish. Neither government nor company appeared to understand the cost of purchasing salmon and seemed to assume that salmon protein could be simply replaced by inexpensive meat.

At the UNWG hearings, Nuxalk-Secwepemc land defender Nuskmata (Jacinda Mack) described the relationship between Indigenous Peoples and the land as a "love story" and the commodification and toxic poisoning of Yuxt ne Senxiymetkwe (Quesnel Lake) as an act of heart-breaking violence on the part of an aggressive interloper. Nuskmata testified: "the cultural inheritance of my children, my grandchildren is gone. My grandchildren and future generations will never know what it's like to swim in Quesnel Lake, to pick the medicines, eat the berries and salmon, taste the moose. We are salmon people. We are moose people. And now that is gone."⁵³ Nuskmata ruefully commented on the way in which Indigenous Peoples' resistance to extractivism and commodification of minerals, timber, water, and animals has long been referred to as the "Indian problem" and has been met with gaslighting, co-option, or repression. The Mount Polley disaster exemplifies this experience.

THE LAND IS SCRAPED BARE

Colonial wealth accumulation, across Canada and in British Columbia, according to Paulson and Tomiak, "has been an explicitly racialized process, directed toward the creation of a white supremacist ethno-state" in which property wealth flows towards centres of cultural whiteness

⁵³ Tara Scurr, "UNWG Meeting Notes, Williams Lake," 2017.

so that “the co-evolution of whiteness and capital” are naturalized by processes of citizenship and democracy.⁵⁴ Brenna Bhandar explains how the unceded territories of British Columbia are transformed into “modern property” through the constant racialization of “Indigenous land use, land relations, and land knowledge” so that Indigenous Peoples’ claims to the right to exist in peace on traditional lands cannot be heard as a “civilized and proper” demand.⁵⁵ In our analysis of the Mount Polley disaster, we chart the repeated bureaucratic and democratically acceptable means through which colonial mining categorizes Indigenous Peoples (as well as their lands, waters, and the non-humans who reside there) as exploitable objects. At its core, this is the onto-epistemological a priori of state human rights violations: exempt an entire population from the measure of what is good and democratic. In this way, suffering is rendered de facto invisible. Disasters are business as usual, and rights are fungible, as defined by colonial industry.

Political philosopher Achille Mbembe clarifies the way in which colonial democratic societies claim to be “pacified societies,” places of order and security existing against a historic and geographic ground of dis-order.⁵⁶ Canada proceeds as if the violence and destruction of extractivism in toto and the tailings pond spill in particular can be brought under the control of bureaucratic processes. Processes of colonial democracy banish the harmful effects of mining from the lives of most citizens (and, in British Columbia, from the lives of the mostly white urban centres), but a population and a location – social and literally geographic – must be set aside for the violences to be regulated and performed in a manner that is hidden from the greater populace.⁵⁷ Banishment never means true erasure: the effects of state violence leave what Mbembe calls a “bitter sediment” in colonial democracies.⁵⁸ We sense this bitterness in the hypocrisy of a politically progressive province that refuses to fully acknowledge the toxic harms of the 2014 disaster as they continue to course through our watersheds (as material toxins) and through our civil relations (as breakdowns of trust in democracy). Such a wearing down of trust and accumulation of toxins are the effects

⁵⁴ Justin Paulson and Julie Tomiak, “Original and Ongoing Dispossession: Settler Capitalism and Indigenous Resistance in British Columbia,” *Journal of Historical Sociology* 35, no. 2 (2022): 154–69, <https://doi.org/10.1111/johs.12365>.

⁵⁵ Brenna Bhandar, “Property, Law, and Race: Modes of Abstraction,” *UC Irvine Law Review* 4, no. 1 (2014): 203–18, <https://scholarship.law.uci.edu/ucilr/vol4/iss1/10/>.

⁵⁶ Mbembe, *Necropolitics*, 41.

⁵⁷ Mbembe, 9–41.

⁵⁸ Mbembe, 20.

of rampant wealth accumulation undertaken with an ongoing disregard for the rights of Indigenous Peoples.

Achille Mbembe's theory of necropolitics proposes that Western democracies have always been both internally democratic and internally oppressive states, reliant upon a "bifurcation" of inhabitants: on the one side, "*a community of fellow creatures* governed, at least in principle, by the law of equality," and, on the other, those categorized as "*non-fellows*" who have no part of the state to claim as their own.⁵⁹ Those without claim are subject to "the law of inequality," which enables "a practically unbridgeable distance to be upheld between the community of fellow creatures and its others."⁶⁰ Mbembe's non-fellows, excluded from agential movement within the mechanism of a state's democracy, cannot claim land, cannot claim safety of their bodies, and cannot demand the rights of civility, governance, and political capital that are available to the democracy's fellows. What is left to the non-fellows? In the case of the Mount Polley disaster, the state excludes Indigenous Peoples from the capital wealth of capitalism, assigning toxic waters to people living along the watershed flowing from Quesnel Lake. The state neglects to protect Indigenous Peoples from toxic mining harms and, in so doing, denies safe access to traditional foods. In contrast, settler colonial locals directly affected by the disaster expected state restoration and environmental justice: they believed they would be included in democratic governance and would be protected by this inclusion. They expected the state to remove toxins from their environment and to restore the dignity of their lives in the wake of the disaster. This settler colonial assumption of a functioning and equitable democracy speaks to Mbembe's analysis of a democracy that "in principle" functions equitably and only in practice functions with inequitable bifurcations. In fact, post-disaster, local settler populations received as little restitution, communication, and justice as did Indigenous Peoples. For Bev Sellars and other local Indigenous leaders, the pitiful response to the disaster only confirms what Indigenous Peoples have long known: extraction of wealth from areas excluded from the state's realm of democratic justice means that all local populations will be excluded from justice when that extraction produces harm.

Mbembe properly frames violence inflicted on colonized peoples as a criminal war of conquest: the colonized people have done no wrong and are not due any moral approbation, and there is no way to justify colonial war for wealth and land as a just war. He refers, mostly, to the

⁵⁹ Mbembe, 17. Italics in original.

⁶⁰ Mbembe, 17–18.

early days of colonial invasion; however, in the Americas, the concept of *terra nullius* provided a four-hundred-year moral loophole for murder and oppression. In truth, colonialism and extractivism without consent are ongoing wars. In 2017, we told Bev Sellars, then elected Chief of the Xat'sull First Nation (site of the disaster), that we considered the Mount Polley Mine in the context of the 1850s gold rush that had stretched from San Francisco to Yukon and had run through Secwepemc lands and waters. Sellars corrected us: for her communities those years are better known as the “Gold Wars.” The murder, violent dispossession, sexual violence, and land theft of the Gold Wars has not ended. Mbembe theorizes that the necropolitical state, as “a sacrificial economy ... requires, on the one hand, a generalized cheapening of the price of life and, on the other, a habituation to loss.” The “habituation to loss” in a necropolitical colonial state moves through centuries to the point at which the loss of clean water and fisheries to Indigenous Peoples elicits not much more than a collective colonial shrug.⁶¹ An appropriate response to a tragic poisoning of interdependent beings would be widespread grief and horror, followed by genuine labour to reconcile and heal. In an Indigenous interdependent worldview, harm done to the lands and waters is harm done to oneself. The systemic exclusion of Indigenous onto-epistemologies leaves standing only the reified capitalist worldview, in which a toxic disaster produces wealth, not harm.

In her study of racialized border harms, BC political theorist Harsha Walia investigates how enforcing sanctions, punishments, and controls outside of colonial civic spaces both cleanses the colonial space of evidence of guilt and hoards extracted wealth for the original colonial powers.⁶² Thus, the reason people living in colonial cities like Vancouver, Calgary, Victoria, or Ottawa might not understand that their own nearby watersheds are at least partly contaminated by events such as the Mount Polley disaster is, simply, that they exist in the racialized space of bureaucratic whiteness and democratic security. In these spaces, bad things like massive spills of pollutants do not occur; or, if they do, there are cleanups, consequences, and changes. Urban settler colonial centres expect to benefit from the wealth created by non-consensual mining on unceded Indigenous lands and waters; they do this without ever seeing the sediment of historic and ongoing necropolitical violence.

⁶¹ Mbembe, 38.

⁶² Harsha Walia, *Border and Rule: Global Migration, Capitalism, and the Rise of Racist Nationalism* (Chicago: Haymarket Books, 2021), 108–27.

Even in so far as settler colonial people in Canada are aware of violent externalities, they experience these violences "voyeuristically," as if they are destined to permanently "exis[t] outside of the colonial citizen state."⁶³ Walia theorizes that, in fact, the violence outside the "fortress" of the colonial centre (she theorizes European centres; we extend her analysis to the urban/rural spaces of colonial Canada) in fact serves to "maintain structures of racial violence" rather than systemically to challenge them.⁶⁴ While Walia and Mbembe interrogate how "the *source* of this violence" has come to be "shaped through imperial, racialised, and spatialized control,"⁶⁵ settler colonial citizens are educated to see border violence, colonial violence, and extractive disasters as accidental externalities rather than as events inherent to colonial regimes.

And though it is the case that some human rights violations occurring far from the Canadian state centres (the Mount Polley disaster, the confirmation of burials of children and babies at residential schools on Secwepmeculew, and the ongoing crisis of murdered and missing Indigenous women and girls are prescient examples) may permeate colonial narratives as graphic and compelling news stories, they flash for just the briefest of moments in settler colonial consciousness. For a time, it seems as though the alarm has been raised, as though the state will finally respond to the crises at hand. But as the BC auditor general's report on MEM shows, and as people living near Quesnel Lake experienced, the state does not respond in a manner that protects and upholds human rights or environmental protections. Perhaps this is because an actual human rights-centred response would lead to the dismantling of the extractivist, capital-producing, settler colonial state in a manner that denaturalizes the haze of the necros, the zones of rightlessness that Nunn identifies and that uphold the necropolitical extractivist state.⁶⁶

Instead, state, and corporate responses trend towards defensive explanations, shifting blame, and turning the disaster into an even greater expansionist opportunity. One of the authors of this article invited major news networks to attend the UNWG investigation held in Williams Lake in 2017. We were informed that it was no longer a priority, even when we explained that the UNWG would be investigating potential human rights violations. By this point in 2017, tailings effluent was continuously being turned over in Quesnel Lake and finding its way

⁶³ Walia, 108.

⁶⁴ Walia, 108.

⁶⁵ Walia, 108. Italics in original.

⁶⁶ Neil Nunn, "Toxic Encounters, Settler Logics of Elimination, and the Future of a Continent," *Antipode* 50, no. 5 (2018): 1331, <https://doi.org/10.1111/anti.12403>.

downriver to the Fraser River watershed, all the way to Vancouver and the Pacific Ocean.

Recognizing the destruction of a food source that had been in existence for thousands of years as colonial violence against Indigenous Peoples frames the disaster as an ongoing imperialist genocide. It is an internal toxicity levelled at Indigenous Peoples that can only happen with the non-consensual exploitation of their lands and waters, with systematic legal restrictions against their legal status, and alongside the intergenerational, purposeful, genocidal assaults on them through kidnapping and the forced assimilation of Indigenous children. The violence of the colonial state may not look like the violence of border guards, police dogs, and crowded migrant camps in the European context. However, we believe that Canada brokers this camouflaged necropolitical violence through regulatory capture and administrative manoeuvres and that it is not an accident of bureaucratic mismanagement.

The Mount Polley disaster led to the company getting exactly what it had longed for: permission to discharge mine waste into Quesnel Lake and a permit to expand its operations. Once the company's current water discharge permit expires in 2025, it intends to seek a permit to allow discharges until the end of the mine's lifecycle.⁶⁷ In initially granting the discharge permit, the BC government required the Mount Polley Mining Corporation to find alternatives to simply discharging mining effluent into the already struggling Quesnel Lake watershed. Despite the corporation failing to find an alternative, the province provided the MPMC with a new permit allowing it to discharge minimally treated water directly into the lake. This occurred despite the chorus of opposition from the majority of settler and Indigenous residents of the region. Necropolitical wealth generation requires the expansion of zones of sacrifice: the lands and waters around the Mount Polley Mine were again sacrificed in favour of approving discharge permits and allowing business as usual.

Despite two (failed) private prosecutions, a recommendation by the RCMP and other government agencies that criminal charges be laid, and recommendations by international human rights bodies, Canada has not issued any fines, penalties, or charges against Imperial Metals or its subsidiary, the MPMC. Indigenous Peoples continue to live with food insecurity and the adverse impact on their ability to pass on language

⁶⁷ Gordon Hoekstra, "Mount Polley Mine Applies to Extend Wastewater Discharge Past 2022 as It Gears up for Expansion," *Vancouver Sun*, 19 March 2022, <https://vancouversun.com/news/local-news/mount-polley-mine-applies-to-extend-waste-water-discharge-past-2022-as-it-gears-up-for-expansion>.

and cultural teachings through fishing and processing their catch for consumption. The First Nations Health Authority's study of the disaster identified the potential health impacts on Indigenous Peoples related to the loss of this cultural practice and food source.⁶⁸ Yet the message understood by industry is this: Canada's natural environment and its people are disposable.

In fact, in "The Elders Said If We Stop Fishing We Will Die, We Will No Longer Exist': Hannah Arendt's Black Holes, Canadian Corporate Mining Impunity, and Indigenous Narrative Resistance,"⁶⁹ Norah Bowman argues that the Canadian state's claim to a humanist superiority has always existed alongside colonial conditions that more than meet the United Nations 1948 definition of genocide. The violence against Indigenous Peoples today, bureaucratized in prison systems, policing, anti-terrorism law, education, and health care, is hidden from most settler colonial Canadians. The 2014 Mount Polley disaster, and the products of the spill that continue to circulate in the Quesnel and Fraser watersheds, touch every being in its wake – settler, Indigenous, or visitor. And so, perhaps, the violence at the core of the Canadian state has come home to the state that created it.

Indigenous Peoples, now addressed through official state processes such as the Truth and Reconciliation Commission, the National Day of Reconciliation, widespread practices of land acknowledgements, and legislation implementing UNDRIP, continue to struggle at the margins of the Canadian state's health, property ownership, and educational institutions.

CONCLUSION

The lessons learned from the 2014 Mount Polley Mine disaster are crucial to preventing future mining-related environmental disasters. The urgency of the global energy transition – the shift away from fossil fuels to the electrification of infrastructure and transportation – will require a massive increase in metals mining. The International Energy Agency estimates that the mineral demand for clean energy technologies will increase at least four times by 2040 to meet the world's stated climate

⁶⁸ First Nations Health Authority, "Mount Polley Health Impact Assessment," 28 July 2016, <https://www.fnha.ca/about/news-and-events/news/mount-polley-health-impact-assessment>.

⁶⁹ Norah Bowman, "The Elders Said If We Stop Fishing We Will Die, We Will No Longer Exist': Hannah Arendt's Black Holes, Canadian Corporate Mining Impunity, and Indigenous Narrative Resistance," *Alternate Routes* 29 (January 2018): 268–82, <https://search.ebscohost.com/login.aspx?direct=true&db=edo&AN=128195044&site=eds-live&scope=site>.

goals under the Paris Agreement – and six times if we are to fully decarbonize by 2050.⁷⁰ Even low carbon technologies, like solar panels and wind turbines, are mineral intensive: graphite, lithium, cobalt, and copper production will need to ramp up significantly to meet demand.⁷¹ Minerals used in the average electric car, like copper, lithium, and nickel, are today being mined in a manner that puts people’s rights to health, housing, life, and other human rights at risk of serious harm.⁷² While winding down fossil fuel dependency, the implications of a major global increase in mining operations over the next two decades on human rights, the rights of Indigenous Peoples, and the environment are staggering.

This increasing demand is amplifying pressures on mineral-rich remote communities. Ontario’s Ring of Fire, for example, has attracted large multinational companies seeking to secure lucrative critical mineral supply chains from mining investments in small communities in the region. Canada joined the US-led Minerals Security Partnership in 2022 to increase government and private-sector investment in energy transition minerals and to disrupt China’s current dominance of critical mineral supply chains.⁷³ Both American and Canadian governments have publicly committed to pouring millions into Canadian mineral supply chains. Indigenous Peoples strongly oppose the devastation of the lands and waters on their territories even as Canada cynically promotes joint extraction and pipeline projects with Indigenous business groups and Band Councils as a form of reconciliation.

At the root of these concerns is the understanding that Canada, a colonial-extractivist state, is driven by market demand and the growth imperative. Within this economic and political model, peoples marginalized by capitalism and colonization are most often sacrificed in the name of economic prosperity. In fact, the “green energy transition” seems to be largely designed to maintain Western levels of middle- and upper-class consumption rather than to make the significant and urgent structural changes required to keep us alive amid a worsening climate crisis. As such, Canada – and other mineral-rich nations – continue to

⁷⁰ International Energy Agency, “The Role of Critical Minerals in Clean Energy Transitions,” May 2021, 9, <https://www.iea.org/reports/the-role-of-critical-minerals-in-clean-energy-transitions>.

⁷¹ International Energy Agency, 9.

⁷² United Nations Special Rapporteur on Human Rights Defenders, Report to the 46th Session of the Human Rights Council, “Final Warning: Death Threats and Killings of Human Rights Defenders,” para. 54, 22 February to 19 March 2021, <https://documents.un.org/doc/undoc/gen/g20/355/11/pdf/g2035511.pdf?token=NW4UpvfJhPkGRSCmBp&fe=true>.

⁷³ Zoe Zongyuan Liu, “How to Secure Critical Minerals for Clean Energy without Alienating China,” *Council on Foreign Relations* (blog), 25 May 2023, <https://www.cfr.org/blog/how-secure-critical-minerals-clean-energy-without-alienating-china>.

sacrifice the rights of people and nature to slake corporate thirst for profit and consumers’ demand for novelty and leisure. Without enforced regulations to end the design practice of planned obsolescence or to increase recycling and reuse of minerals, many of these goods will simply end up in Canadian or overseas landfills. If we refuse to break this mould, the opportunity for a cleaner energy future – one that includes Indigenous Peoples’ inalienable rights to well-being, access to culture, access to traditional foods, and control over their own lands and resources – risks being squandered. The necropolitical colonial state includes swathes of geographies marked by a “multitude of destroyed” beings left in the wake of colonial capitalist expansion.⁷⁴ In a global context, Indigenous Peoples and the lands and waters they have long stewarded are at risk of being sacrificed for new global markets. The authors of this article urge Canadian corporate, non-profit, and elected governance bodies to create an Indigenous knowledge-based, interrelational, rights-centred paradigm for sustainable energies production.⁷⁵ Any other pathway will produce further destruction – destruction akin to the 2014 Mount Polley Mine disaster and the harm it wrought upon the plant, animal, fish, and human lives of the affected watersheds.

⁷⁴ Mbembe, *Necropolitics*, 115.

⁷⁵ Mbembe, 115.