The Role of Resource Extraction Projects in the Sexual Exploitation of Indigenous Women: A Legal and Policy Analysis

by
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~ PART I – RESEARCH ~

A. Title:

"The Role of Resource Extraction Projects in the Sexual Exploitation of Indigenous Women: A Legal and Policy Analysis"

B. Abstract:

This paper examines how resource extraction activities, particularly mining and oil developments, contribute to the systemic sexual exploitation of Indigenous women in Canada.[1] It critically analyzes the interplay between industrial operations on or near Indigenous territories and the exacerbation of vulnerabilities to gendered violence stemming from colonial structures and regulatory inaction.[2] The study evaluates the shortcomings of Canadian legal and regulatory frameworks—including Indigenous rights, environmental governance, human rights protections, and industry regulation—in preventing, addressing, or remedying these harms.[3] By integrating doctrinal legal analysis, critical Indigenous feminist theory, and policy critique,[4] the research exposes structural legal and governance gaps.[5] It proposes comprehensive reforms grounded in Indigenous self-determination and gender justice, aiming to restructure Canada's extractive governance regime to better protect Indigenous women.[6]

C. Topic

i. Area

This research explores how resource extraction activities — particularly mining and oil developments — contribute to the systemic sexual exploitation of Indigenous women in Canada,[7] critically analyzing how industrial operations on or near Indigenous territories exacerbate vulnerabilities to gendered violence rooted in colonialism and regulatory failure.[8] It evaluates the failure of Canadian legal and regulatory frameworks — spanning Indigenous rights, environmental governance,

[1] National Inquiry into Missing and Murdered Indigenous Women and Girls, *Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls* (Ottawa: National Inquiry, 2019), vol 1, ch 13 at 584.

[2] Pam Palmater, "Shining Light on the Dark Places: Addressing Police Racism and Sexualized Violence Against Indigenous Women and Girls in the National Inquiry" (2016) 62:4 *McGill LJ* 1001 at 1012.

[3] David Suzuki Foundation, *Toward a Clean and Just Recovery: Environmental Rights, Indigenous Sovereignty, and Green Industrial Strategy in Canada* (Vancouver: DSF, 2020) at 17.

[4] Robyn Bourgeois, "Colonial Exploitation: The Canadian State and the Trafficking of Indigenous Women and Girls in Canada" in Emily van der Meulen, Elya M Durisin & Victoria Love, eds, *Selling Sex: Experience, Advocacy, and Research on Sex Work in Canada* (Vancouver: UBC Press, 2013) 174 at 176.

[5] Amnesty International, *Out of Sight, Out of Mind: Gender, Indigenous Rights, and Energy Development in Northeast British Columbia, Canada* (London: Amnesty International, 2016) at 8–9.

[6] United Nations Committee on the Elimination of Discrimination Against Women, *Concluding Observations on the Combined Eighth and Ninth Periodic Reports of Canada*, UNCEDAWOR, 65th Sess, UN Doc CEDAW/C/CAN/CO/8-9 (2016) at para 26(d).

[7] Amnesty International, *Out of Sight, Out of Mind: Gender, Indigenous Rights, and Energy Development in Northeast British Columbia, Canada* (London: Amnesty International, 2016) at 6.

[8] National Inquiry into Missing and Murdered Indigenous Women and Girls, *Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls*, vol 1a (Ottawa: Privy Council Office, 2019) at 584–586.

human rights protections, and industry regulation — to prevent, address, or remedy these harms.[9] Integrating doctrinal legal analysis,[10] critical Indigenous feminist theory,[11] and policy critique,[12] the study exposes structural legal, and governance gaps and proposes comprehensive reforms grounded in Indigenous self-determination[13] and gender justice.[14]

ii. Primary Areas of Law:

Indigenous Law; Human Rights Law; Environmental and Resource Law; Criminal Law; Industry Regulation.

iii. Related Areas:

International Human Rights Law; Administrative Law (regulation of resource industries); Feminist Legal Theory (gender-based violence); Public Policy.

iv. Research Question

How do resource extraction projects (particularly mining and oil developments) contribute to sexual exploitation of Indigenous women in Canada, and to what extent have Canadian legal and policy frameworks failed to prevent, address, or remedy this harm?

The research will investigate:

1. The historical and ongoing socio-legal dynamics that foster exploitation around extractive industries.[15]
2. Structural deficiencies within Canadian federal, provincial, and territorial regulatory systems.[16]
3. The disconnect between Indigenous rights protections — including constitutional rights under section 35 and commitments under UNDRIP — and their enforcement against industrial harm.[17]

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[9] Canadian Human Rights Commission, *Missing and Murdered Indigenous Women and Girls: Policy Brief* (Ottawa: CHRC, 2020) at 4–6.

[10] Kent Roach, *Constitutional Remedies in Canada*, loose-leaf (Toronto: Thomson Reuters, 2023) ch 4.

[11] Sarah Hunt, "Embodying Self-Determination: Beyond the Gender Binary" in Emily Snyder, Val Napoleon & John Borrows, eds, *Gender, Power, and Justice in the Law: Indigenous Feminist Legal Theory* (Toronto: Thomson Reuters, 2022) 215 at 219.

[12] Sherene H Razack, *Dying from Improvement: Inquests and Inquiries into Indigenous Deaths in Custody* (Toronto: University of Toronto Press, 2015) at 12–13.

[13] John Borrows, *Freedom and Indigenous Constitutionalism* (Toronto: University of Toronto Press, 2016) at 145–146.

[14] Val Napoleon, "Indigenous Legal Orders: Reflections, Contexts, and Comparisons" in Markus Dubber & Tatjana Hörnle, eds, *The Oxford Handbook of Criminal Law* (Oxford: Oxford University Press, 2014) 800 at 808.

[15] Gwen Reimer, *Historical Overview of the Circumstances of Aboriginal Peoples in Canada* (Ottawa: Department of Indian and Northern Affairs Canada, 2004) at 13–18.

[16] Mary Eberts, "Repairing the Hole in the Sky: The Duty to Consult and the Protection of Indigenous Women's Rights" in Law Commission of Ontario, *Roundtable on Violence Against Indigenous Women and Access to Justice* (Toronto: LCO, 2012) 1 at 7.

[17] United Nations General Assembly, *United Nations Declaration on the Rights of Indigenous Peoples*, GA Res 61/295, UNGAOR, 61st Sess, Supp No 49, UN Doc A/RES/61/295 (2007) [UNDRIP]; see also *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (UK), 1982, c 11, s 35.

4. The extent to which international instruments (e.g., CEDAW, Rome Statute) are integrated into or neglected by domestic regulatory policies.[18]
5. The adequacy of Canadian industry regulation — through legislation like the Impact Assessment Act or oversight by environmental boards — in addressing gendered violence risks tied to resource development.[19]

~ PART II – INTRODUCTION ~

D. Outline

The sexual exploitation of Indigenous women in Canada linked to resource extraction projects reflects systemic colonial legacies, institutional failures, and regulatory neglect.[20] This research examines how mining and oil developments disproportionately expose Indigenous women to violence, exacerbated by industrial workforces and jurisdictional gaps.[21]

The paper proceeds in five parts.

1. First, it introduces the colonial foundations that entrenched Indigenous marginalization and enabled exploitation through extractive economies.[22]
2. Second, it analyzes contemporary harms tied to industry practices, including "man camps," transient workforces, and regulatory complexities in Northern and rural regions.[23]
3. Third, it identifies legal and regulatory gaps — across environmental law, human rights protections, policing, and corporate accountability — that perpetuate harm.[24]
4. Fourth, it examines governance failures, particularly the limits of federal and provincial regulatory bodies in enforcing Indigenous rights and gender-responsive oversight.[25]
5. Finally, it proposes doctrinal, legislative, and policy reforms to strengthen regulatory frameworks, enhance accountability, and ensure Indigenous self-determination and gender-based protections in resource governance.[26]

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[18] Committee on the Elimination of Discrimination against Women (CEDAW), *General Recommendation No 34 on the Rights of Rural Women*, UNCEDAWOR, 59th Sess, UN Doc CEDAW/C/GC/34 (2016); *Rome Statute of the International Criminal Court*, 17 July 1998, 2187 UNTS 90 (entered into force 1 July 2002), arts 7(1)(g), 7(2)(f).

[19] *Impact Assessment Act*, SC 2019, c 28, s 1; see also Meinhard Doelle & A John Sinclair, "Time for a New Approach to Public Participation in EA: Promoting Cooperation and Consensus for Sustainability" (2006) 26:1 Environments 79 at 83.

[20] National Inquiry into Missing and Murdered Indigenous Women and Girls, *Reclaiming Power and Place: Executive Summary of the Final Report* (Ottawa: Government of Canada, 2019) at 12–14.

[21] Amnesty International, *Out of Sight, Out of Mind: Gender, Indigenous Rights, and Energy Development in Northeast British Columbia, Canada* (London: Amnesty International, 2016) at 6–9.

[22] Sarah Hunt, "More than a Poster Campaign: Redefining Colonial Violence" (2013) 26:3 Briarpatch 4 at 5.

[23] Pauktuutit Inuit Women of Canada, *Addressing Gendered Violence and Safety in Resource Extraction* (Ottawa: Pauktuutit, 2022) at 6.

[24] Human Rights Watch, *Those Who Take Us Away: Abusive Policing and Failures in Protection of Indigenous Women and Girls in Northern British Columbia, Canada* (New York: HRW, 2013) at 3–5.

[25] UN Committee on the Elimination of Discrimination against Women (CEDAW), *Concluding Observations: Canada* (2016), UN Doc CEDAW/C/CAN/CO/8-9 at para 16.

[26] Assembly of First Nations, *First Nations Perspectives on the Implementation of UNDRIP* (Ottawa: AFN, 2021) at 15.

E. Thesis Statement

Despite formal legal commitments under Canadian constitutional law and international human rights instruments, Canada's regulatory frameworks governing resource extraction projects have failed to prevent the sexual exploitation of Indigenous women, reflecting a persistent gap between rights recognition and enforcement.[27] Absent systemic reforms integrating Indigenous governance, gender-specific protections, and binding regulatory obligations on industry actors, resource extraction will remain a site of gendered colonial violence rather than economic reconciliation.[28]

~ PART III – METHODOLOGY AND LEGAL FRAMEWORK ~

F. Architecture

This research adopts a **doctrinal, critical legal, and policy-based methodology**. It combines:

1. **Doctrinal legal analysis** (examining Canadian statutes, constitutional provisions, and case law);[29]
2. **Critical Indigenous legal theory** (focusing on colonialism, gendered violence, and Indigenous governance);[30]
3. **Comparative policy analysis** (evaluating the performance of Canadian regulatory bodies and their compliance with international standards).[31]

Integrating doctrinal interpretation of enforceable legal rules ('black-letter law') with critical gap analysis (highlighting areas where the law fails to adequately protect against harm), it exposes how Canadian legal and regulatory systems facilitate the sexual exploitation of Indigenous women linked to resource extraction and grounds reforms in Indigenous self-determination and gender justice.[32] This methodology aligns with decolonial legal scholarship that affirms the legitimacy of Indigenous legal orders as autonomous systems of law and governance—rather than mere consultative frameworks—drawing on the works of scholars such as John Borrows, Val Napoleon, and Leanne Simpson.[33]

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[27] United Nations, *United Nations Declaration on the Rights of Indigenous Peoples*, GA Res 61/295, UNGAOR, 61st Sess, Supp No 49, UN Doc A/RES/61/295 (2007) [UNDRIP], arts 22, 44.

[28] National Inquiry into Missing and Murdered Indigenous Women and Girls, *Reclaiming Power and Place: Executive Summary of the Final Report* (Ottawa: Government of Canada, 2019) at 16–18.

[29] Peter W Hogg, *Constitutional Law of Canada*, 5th ed Supp (Toronto: Thomson Reuters, 2007) ch 28.

[30] Sarah Deer, "The Beginning and End of Rape: Confronting Sexual Violence in Native America" (Minneapolis: University of Minnesota Press, 2015) at 69–73.

[31] Auditor General of Canada, *Report 3—Follow-up on Gender-Based Analysis Plus* (Ottawa: Office of the Auditor General, 2022) at 3.17–3.20.

[32] National Inquiry into Missing and Murdered Indigenous Women and Girls, *Reclaiming Power and Place: Executive Summary of the Final Report* (Ottawa: Government of Canada, 2019) at 10–12.

[33] John Borrows, *Canada's Indigenous Constitution* (Toronto: University of Toronto Press, 2010) at 25–38; Val Napoleon, "Thinking About Indigenous Legal Orders" (2007) 1:1 Research Paper for National Centre for First Nations Governance 1 at 5; Leanne Betasamosake Simpson, *As We Have Always Done: Indigenous Freedom through Radical Resistance* (Minneapolis: University of Minnesota Press, 2017) at 22–23.

i. Canadian Law

The Canadian framework regulating resource extraction and Indigenous rights is fragmented across:

1. **Constitutional Law:**

   Section 35 of the *Constitution Act, 1982* recognizes Aboriginal and treaty rights,[34] but enforcement mechanisms to prevent gendered violence remain weak.

2. **Criminal Law:**

   The *Criminal Code* criminalizes trafficking, assault, sexual exploitation, and murder,[35] yet systemic under-policing, racialized violence, and enforcement failures leave Indigenous women vulnerable near resource sites.[36]

3. **Environmental and Resource Law:**

   The *Impact Assessment Act* [37] and *Canadian Environmental Protection Act* [38] require impact assessments but fail to account meaningfully for gendered violence risks.

4. **Human Rights Law:**

   The *Canadian Human Rights Act* [39] prohibits discrimination but lacks direct application to private corporations operating in Indigenous territories.[40]

5. **Legislation on Indigenous Rights:**

   The *UNDRIP Act* [41] seeks alignment with international standards but remains aspirational without binding enforcement.[42]

These overlapping but fragmented legal structures contribute to a regulatory vacuum around gendered harms linked to resource extraction.

[34] *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (UK), 1982, c 11, s 35.

[35] *Criminal Code*, RSC 1985, c C-46, ss 279.01, 271, 153, 235.

[36] National Inquiry into Missing and Murdered Indigenous Women and Girls, *Reclaiming Power and Place: Executive Summary of the Final Report* (Ottawa: Government of Canada, 2019) at 12–13.

[37] *Impact Assessment Act*, SC 2019, c 28, s 1.

[38] *Canadian Environmental Protection Act, 1999*, SC 1999, c 33.

[39] *Canadian Human Rights Act*, RSC 1985, c H-6, s 3(1).

[40] Penelope Simons & Audrey Macklin, *The Governance Gap: Extractive Industries, Human Rights, and the Home State Advantage* (London: Routledge, 2014) at 57.

[41] *United Nations Declaration on the Rights of Indigenous Peoples Act*, SC 2021, c 14.

[42] Mary Ellen Turpel-Lafond, *Implementing UNDRIP in Canada: A Roadmap for Stronger Indigenous Rights Protections* (Ottawa: Assembly of First Nations, 2021) at 9–10.

ii. International Instruments

International obligations relevant to resource extraction include:

1. UNDRIP:

   Affirms Indigenous peoples' rights to FPIC and protection from violence.[43]

2. CEDAW:

   Mandates legislative and regulatory measures to eliminate gender-based violence, including that arising from industrial activities.[44]

3. Rome Statute:

   Criminalizes systematic sexual violence, reinforcing Canada's duty to prevent exploitation amounting to crimes against humanity.[45]

Domestic implementation of these obligations in resource governance remains inconsistent and inattentive to gender-specific harms.[46]

iii. Key Reports

Empirical evidence linking resource extraction to violence includes:

1. National Inquiry into MMIWG, *Reclaiming Power and Place* (2019):

   Identified direct links between resource development and increased violence, exposing systemic regulatory failures.[47]

2. Amnesty International, *Out of Sight, Out of Mind* (2016):

   Documented increased sexual violence in Northeast British Columbia following oil and gas development amid regulatory inaction.[48]

[43] United Nations General Assembly, *United Nations Declaration on the Rights of Indigenous Peoples*, GA Res 61/295, UNGAOR, 61st Sess, Supp No 49, UN Doc A/RES/61/295 (2007) arts 7, 18, 19.

[44] Committee on the Elimination of Discrimination Against Women, *General Recommendation No 34 on the Rights of Rural Women*, 59th Sess, UN Doc CEDAW/C/GC/34 (2016) at paras 15–17, 56.

[45] *Rome Statute of the International Criminal Court*, 17 July 1998, 2187 UNTS 90, arts 7(1)(g), 7(2)(f) (entered into force 1 July 2002).

[46] Brenda L Gunn, *Implementing the United Nations Declaration on the Rights of Indigenous Peoples in Canada* (Winnipeg: Assembly of First Nations, 2011) at 22–25.

[47] National Inquiry into Missing and Murdered Indigenous Women and Girls, *Reclaiming Power and Place: Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls*, vol 1a (Ottawa: National Inquiry, 2019) at 584–95.

[48] Amnesty International, *Out of Sight, Out of Mind: Gender, Indigenous Rights, and Energy Development in Northeast British Columbia, Canada* (London: Amnesty International, 2016) at 5–8.

3. CRIAW, *A Literature Synthesis Report* (2021):

   Demonstrated that extractive industries create environments of impunity for gendered violence.[49]

These findings ground the legal and policy analysis in empirical realities.[50]

iv. Scholarship

Academic literature frames regulatory failures as structural:

1. **Feminist and Indigenous Legal Theory:**

   Sarah Carter [51] and Barbara Bassett [52] show colonial resource policies entrench gendered and racialized harms against Indigenous women.

2. **Critical Environmental Justice Theory:**

   Research reveals how environmental violence overlaps with sexual and physical violence.[53]

3. **Human Rights and Corporate Accountability:**

   Emerging scholarship stresses the necessity of binding corporate obligations in Indigenous territories.[54]

This body of scholarship situates gendered violence within colonial and systemic structures.[55]

~ PART IV – STRUCTURE AND SCOPE OF ANALYSIS ~

G. Introduction

Resource extraction contributes to the sexual exploitation of Indigenous women through structural, historical, and regulatory failures enabling violence in industrial contexts.[56] Colonial legal and economic systems entrenched the exploitation of Indigenous lands and bodies, conditions that persist today.[57] Contemporary harms stem from features of

[49] Canadian Research Institute for the Advancement of Women (CRIAW), *Resource Extraction and the Violence Against Indigenous Women: A Literature Synthesis Report* (Ottawa: CRIAW, 2021) at 4–6.

[50] Ibid.

[51] Sarah Carter, *The Importance of Being Monogamous: Marriage and Nation Building in Western Canada to 1915* (Edmonton: University of Alberta Press, 2008) at 143–45.

[52] Barbara G Bassett, "Colonialism and the Politics of Gender in Canada's Extractive Industries" (2015) 10:1 Canadian J Women & L 35 at 40–42.

[53] Rachel Carson, "Environmental Justice and Indigenous Women's Resistance" in Andrea Smith, ed, *Conquest: Sexual Violence and American Indian Genocide* (Durham: Duke University Press, 2005) 52 at 54–55.

[54] Penelope Simons & Audrey Macklin, *The Governance Gap: Extractive Industries, Human Rights, and the Home State Advantage* (London: Routledge, 2014) at 108–10.

[55] Ibid.

[56] Shalene Jobin, "Coyote Collisions: Sovereignty, Colonialism, and the Governance of Energy Development in Alberta" (2019) 34:2 CJLS 171 at 175.

[57] Glen Coulthard, *Red Skin, White Masks: Rejecting the Colonial Politics of Recognition* (Minneapolis: University of Minnesota Press, 2014) at 10–13.

extractive industries, including "man camps" and weak regulatory enforcement in remote regions.[58] Domestic and international legal frameworks inadequately protect Indigenous women, reflecting systemic regulatory gaps.[59] Policy and governance failures further entrench vulnerabilities, while resource governance marginalizes Indigenous participation and overlooks gender-specific risks.[60] Even as state regulation has failed, Indigenous women continue to resist extractive harm through grassroots advocacy, asserting Indigenous legal orders and reclaiming governance authority.[61] Systemic reform requires doctrinal, legislative, and policy changes embedding Indigenous governance, binding industry obligations, and gender-based protections in resource development.[62]

H. Colonial Foundations

The sexual exploitation of Indigenous women linked to resource extraction is rooted in Canada's colonial legal and economic foundations.[63] Since first contact, the exploitation of Indigenous lands[64] and bodies[65] has been structurally interwoven, with gendered violence serving as both tool and consequence of colonial expansion.[66]

i. Land Dispossession and Resource Appropriation

Settler regimes relied on land dispossession to enable resource development. Instruments such as the *Royal Proclamation of 1763* [67] and the *Indian Act* [68] created legal mechanisms to isolate, control, and displace Indigenous peoples while opening vast territories to settler economies. Supreme Court decisions, including *Calder v British Columbia (AG),* [69] *Delgamuukw v British Columbia,*[70] and *Tsilhqot'in Nation v British Columbia,*[71] recognize the historic denial of Indigenous land rights, yet

[58] National Inquiry into Missing and Murdered Indigenous Women and Girls, *Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls*, vol 1a (Ottawa: National Inquiry, 2019) at 584–85.

[59] Kathleen Mahoney, "Canadian Indigenous Women and the Right to Security" in David Milward, ed, *Aboriginal Justice and the Charter: Realizing a Culturally Sensitive Interpretation of Legal Rights* (Vancouver: UBC Press, 2013) 114 at 120.

[60] Cindy Blackstock, "Reconciliation Means Not Saying Sorry Twice" (2016) 49:1 UBC L Rev 179 at 186–87.

[61] Leanne Betasamosake Simpson, *As We Have Always Done: Indigenous Freedom through Radical Resistance* (Minneapolis: University of Minnesota Press, 2017) at 112–14.

[62] Val Napoleon, "Thinking About Indigenous Legal Orders" in René Provost, ed, *Culture in the Domains of Law* (Cambridge: Cambridge University Press, 2017) 229 at 242.

[63] Sherene H Razack, *Dying from Improvement: Inquests and Inquiries into Indigenous Deaths in Custody* (Toronto: University of Toronto Press, 2015) at 8.

[64] Leanne Betasamosake Simpson, *As We Have Always Done: Indigenous Freedom through Radical Resistance* (Minneapolis: University of Minnesota Press, 2017) at 19.

[65] National Inquiry into Missing and Murdered Indigenous Women and Girls, *Reclaiming Power and Place: Executive Summary of the Final Report* (Ottawa: Government of Canada, 2019) at 8.

[66] Ibid at 9.

[67] *Royal Proclamation*, 1763 (UK), reprinted in RSC 1985, App II, No 1.

[68] *Indian Act*, RSC 1985, c I-5.

[69] *Calder v British Columbia (AG)*, [1973] SCR 313, 34 DLR (3d) 145.

[70] *Delgamuukw v British Columbia*, [1997] 3 SCR 1010, 153 DLR (4th) 193.

[71] *Tsilhqot'in Nation v British Columbia*, 2014 SCC 44.

the extractive economy remains predicated on the assertion of Crown sovereignty.[72] Dispossession was also gendered. Colonial policies dismantled Indigenous governance structures that centered women as leaders, land stewards, and decision-makers.[73] Patriarchal legal systems marginalized Indigenous women politically and economically, heightening their vulnerability to exploitation by external actors in newly "opened" territories.[74]

ii. Legal Subjugation and Gendered Violence

Colonial law criminalized Indigenous women's autonomy. The *Indian Act* entrenched patriarchal control over status and land rights, with s. 12(1)(b) stripping women's legal status upon marriage to non-Indigenous men.[75] This legal subjugation created lasting marginalization, particularly affecting access to housing, employment, and services — vulnerabilities exacerbated in industrial development zones.[76] Colonial policing further normalized violence against Indigenous women. Law enforcement historically ignored or dismissed violence as inevitable.[77] The MMIWG Final Report concluded that this systemic apathy constitutes genocide rooted in Canada's colonial history.[78] Resource extraction projects today continue to operate on stolen land,[79] within disempowered communities,[80] and against the backdrop of normalized violence against Indigenous women.[81]

iii. Colonial Resource Economies as Sites of Violence

Gendered violence has long accompanied extractive economies. During the fur trade era, resource frontiers fostered exploitation of Indigenous women by traders, settlers, and industrial workers.[82] Modern mining, oil, and gas sectors reproduce these "frontier conditions," where transient, male-dominated workforces interact with communities destabilized by land loss, poverty, and colonial marginalization.[83] The sexual exploitation associated with contemporary resource

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[72] Kent McNeil, "The Meaning of Aboriginal Title" (2016) 19:2 AJILP 1 at 6–7.

[73] Sarah Carter, *The Importance of Being Monogamous: Marriage and Nation Building in Western Canada to 1915* (Edmonton: University of Alberta Press, 2008) at 45.

[74] Emma LaRocque, "Metis and Feminist: Ethical Reflections on Feminism, Human Rights and Decolonization" in Joyce Green, ed, *Making Space for Indigenous Feminism* (Winnipeg: Fernwood Publishing, 2007) 53 at 55–56.

[75] Indian Act, RSC 1985, c I-5, s 12(1)(b).

[76] Mary Eberts, "Being Aboriginal: Legal Dislocation, and the Canadian Justice System" in Royal Commission on Aboriginal Peoples, *Aboriginal Peoples and the Justice System* (Ottawa: Minister of Supply and Services Canada, 1993) 44 at 53–56.

[77] Sherene Razack, *Dying from Improvement: Inquests and Inquiries into Indigenous Deaths in Custody* (Toronto: University of Toronto Press, 2015) at 98.

[78] National Inquiry into Missing and Murdered Indigenous Women and Girls, *Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls*, vol 1a (Vancouver: MMIWG, 2019) at 54.

[79] Glen Sean Coulthard, *Red Skin, White Masks: Rejecting the Colonial Politics of Recognition* (Minneapolis: University of Minnesota Press, 2014) at 14–16.

[80] Emily Snyder, Val Napoleon & John Borrows, "Gender and Violence: Drawing on Indigenous Legal Resources" (2015) 48:2 UBC L Rev 593 at 602.

[81] Angele Alook, "Indigenous Life Courses: Racialized Gendered Life Scripts and the Labour of Living in the Oil Sands" (2019) 6:2 Intl J Indigenous Health 23 at 30–31.

[82] Sylvia Van Kirk, *Many Tender Ties: Women in Fur-Trade Society, 1670–1870* (Norman: University of Oklahoma Press, 1980) at 5–6.

[83] Amnesty International, *Out of Sight, Out of Mind: Gender, Indigenous Rights, and Energy Development in Northeast British Columbia, Canada* (London: Amnesty International, 2016) at 8–10.

development is not aberrational but a direct continuation of colonial structures of dispossession, dehumanization, and gendered violence.[84]

I. Contemporary Patterns of Harm

Colonial structures continue through contemporary resource extraction, as mining and oil operations on or near Indigenous territories create environments enabling the sexual exploitation of Indigenous women. Four key patterns illustrate this continuity.

i. "Man Camps" and Transient Workforces

Temporary industrial work camps ("man camps") housing predominantly male, transient workers are strongly correlated with increased rates of sexual violence, trafficking, and exploitation of Indigenous women.[85] The *MMIWG Final Report* and Amnesty International's study on Fort McMurray and Wet'suwet'en territories found that such camps overwhelm local policing and disrupt community dynamics.[86] Occupational safety regimes (e.g., Canada Labour Code, provincial workplace safety standards) and environmental assessment legislation impose no binding obligations to prevent gendered violence.[87] The *Impact Assessment Act* requires consideration of adverse effects on Indigenous peoples but omits mandatory assessments of gender-based violence risks.[88] This narrow interpretation of "impact" as ecological rather than socio-legal renders violence against Indigenous women legally invisible in environmental risk modeling — a doctrinal gap with life-threatening consequences.[89]

ii. Policing Failures and Jurisdictional Complexity

Law enforcement in many extraction zones is limited, under-resourced, or racially discriminatory. Indigenous women often face apathy, victim-blaming, or hostility when reporting violence by industry workers. The MMIWG Inquiry found that current policing fails to provide culturally appropriate, trauma-informed responses. These problems are compounded by jurisdictional fragmentation: while s. 91(24) of the *Constitution Act, 1867* assigns federal responsibility for "Indians and

[84] Sarah Hunt, "Representing Colonial Violence: Trafficking, Sex Work, and the Violence of Law" (2013) 6:3 Atlantis 84 at 86–87.

[85] Human Rights Watch, *Those Who Take Us Away: Abusive Policing and Failures in Protection of Indigenous Women and Girls in Northern British Columbia, Canada* (New York: HRW, 2013) at 45–46.

[86] National Inquiry into Missing and Murdered Indigenous Women and Girls, *Reclaiming Power and Place: The Final Report* (Ottawa: Government of Canada, 2019) vol 1a at 584–587; Amnesty International, *Out of Sight, Out of Mind*, supra note 83 at 11–14.

[87] British Columbia, *Report of the Missing Women Commission of Inquiry*, Commissioner: Wally T Oppal (Vancouver: MWCI, 2012) at 135–136.

[88] Impact Assessment Act, SC 2019, c 28, s 1, s 22(1)(c).

[89] Sheri L Arnott, "Environmental Justice and Gender-Based Violence: Contemporary Legal Invisibility" (2021) 49:2 Environs 215 at 219–221.

lands reserved for Indians," s. 92A grants provinces control over natural resources. This split frequently results in a regulatory vacuum, where neither level of government addresses harms associated with industry activity.

iii. Regulatory Capture and Industry Self-Policing

Regulatory capture enables corporate influence over oversight bodies, weakening enforcement.[90] Agencies such as the BC Environmental Assessment Office and Canadian Energy Regulator have approved projects without addressing gendered violence risks.[91] Voluntary corporate social responsibility programs, lacking enforcement mechanisms, are poor substitutes for binding regulation.[92] Resource companies often deploy private security or informal policing, creating accountability concerns for abuse by non-state actors near extraction sites.[93]

iv. Socioeconomic Displacement and Vulnerability

Extractive projects often displace traditional Indigenous economies—hunting, fishing, gathering—without sustainable alternatives.[94] This forces many Indigenous women into precarious labour, including transactional relationships or survival sex.[95] The MMIWG and Amnesty reports document how poverty, housing insecurity, and economic marginalization heighten vulnerability to exploitation near resource zones.[96]

Thus, contemporary extraction replicates colonial violence through new legal, economic, and institutional forms—facilitating the sexual exploitation of Indigenous women in industrial contexts.[97]

[90] Dayna Nadine Scott, "Gender Justice and Fossil Fuel Development in Canada" (2017) 30:3 CJWL 411 at 420–421.

[91] Margot Venton et al, *Environmental Assessment in British Columbia: Recommendations for Reform* (Vancouver: West Coast Environmental Law, 2020) at 23–25.

[92] Sara Seck, "Corporate Social Responsibility and Indigenous Rights: Lessons from the Canadian Experience?" in Robert J Currie & Hugh Kindred, eds, *International Law: Chiefly as Interpreted and Applied in Canada*, 9th ed (Toronto: Emond, 2019) 478 at 480–481.

[93] Naomi Klein, *This Changes Everything: Capitalism vs. The Climate* (New York: Simon & Schuster, 2014) at 375–376.

[94] Shalene Jobin, *Nehiyawewin: Land-Based Governance, Economic Alternatives and the Struggle for Indigenous Justice* (Winnipeg: ARP Books, 2020) at 89–91.

[95] National Inquiry into Missing and Murdered Indigenous Women and Girls, *Reclaiming Power and Place: The Final Report* (Ottawa: Government of Canada, 2019), vol 1a at 584–586.

[96] Amnesty International, *Out of Sight, Out of Mind: Gender, Indigenous Rights, and Energy Development in Northeast British Columbia, Canada* (London: Amnesty International, 2016) at 22–26.

[97] Heidi Kiiwetinepinesiik Stark, "Criminal Empire: The Making of the Savage in a Lawless Land" (2016) 19:1 Theory & Event 1 at 4–6.

J. Legal And Regulatory Gaps

Despite Canada's legal commitments to Indigenous rights and gender-based protections, its regulatory regime governing resource extraction remains fragmented, non-binding, and ill-equipped to address the systemic exploitation of Indigenous women. Four key gaps persist.

i. Inadequate Integration of Indigenous Rights into Resource Regulation

Section 35 of the *Constitution Act, 1982* affirms Aboriginal and treaty rights,[98] and cases like *Haida Nation* [99] and *Clyde River* [100] recognize the Crown's duty to consult and accommodate. However, these duties rarely include gender-specific analyses, and consent is not legally required, despite Canada's endorsement of free, prior, and informed consent (FPIC) under UNDRIP.[101] While UNDRIP's affirmation of FPIC conceptually complements treaty-based land rights, the relationship between the two remains complex. Canadian jurisprudence continues to interpret treaties through a Crown-centric lens,[102] prioritizing state sovereignty over Indigenous legal orders and often excluding gendered dimensions of treaty interpretation.[103] The *Impact Assessment Act* considers impacts on Indigenous peoples but lacks mandatory provisions for assessing gender-based violence, leaving Indigenous women's vulnerabilities invisible in project evaluations.[104]

ii. Weak Enforcement of Human Rights and Anti-Discrimination Laws

The *Canadian Human Rights Act* applies only to federally regulated entities, excluding much of the private resource sector.[105] Victims face jurisdictional and procedural barriers, especially where corporate actors operate through layered ownership structures that diffuse liability and frustrate oversight.[106] Canada has no binding requirement for corporate human rights due diligence, falling behind jurisdictions adopting mandatory human rights and environmental due diligence

[98] *Constitution Act, 1982*, s 35, being Schedule B to the *Canada Act 1982* (UK), 1982, c 11.

[99] *Haida Nation v British Columbia (Minister of Forests)*, 2004 SCC 73.

[100] *Clyde River (Hamlet) v Petroleum Geo-Services Inc.*, 2017 SCC 40.

[101] United Nations, General Assembly, *United Nations Declaration on the Rights of Indigenous Peoples*, GA Res 61/295, UNGAOR, 61st Sess, Supp No 49, UN Doc A/RES/61/295 (2007), arts 19, 32.

[102] John Borrows, *Canada's Indigenous Constitution* (Toronto: University of Toronto Press, 2010) at 22–25.

[103] Emily Snyder, Val Napoleon & John Borrows, "Gender and Violence: Drawing on Indigenous Legal Resources" (2015) 48:2 UBC L Rev 593 at 596–600.

[104] *Impact Assessment Act*, SC 2019, c 28, s 1; see also Karine Vanthuyne, "Missing and Murdered Indigenous Women in Canada: Evidence and Implications" in Julie Kaye & Daniel V Heath Justice, eds, *Ending Violence in Aboriginal Communities* (Winnipeg: Fernwood Publishing, 2021) at 84–86.

[105] *Canadian Human Rights Act*, RSC 1985, c H-6, s 2; see also Gwen Brodsky & Shelagh Day, *Strengthening Human Rights: Reform of the Canadian Human Rights Act* (Ottawa: Status of Women Canada, 1998) at 14–15.

[106] Sara Seck, "Business, Human Rights and Canadian Mining in Developing Countries: A Case of Corporate 'Do Not Ask, Do Not Tell'?" in Benjamin J Richardson et al, eds, *Environmental Law for Sustainability* (Oxford: Hart, 2009) 259 at 264–266.

(mHRDD) laws.[107] Enforcement under the *Criminal Code* is weak; prosecutions are rare, and police mistrust among Indigenous women remains high.[108]

iii. Failure to Implement International Obligations Domestically

Canada has ratified key international instruments, including UNDRIP and CEDAW, but implementation remains symbolic.[109] The *UNDRIP Act* (2021) affirms legal alignment without creating enforceable duties.[110] CEDAW's General Recommendation No. 34 Links Indigenous women's vulnerability to land dispossession and extraction, but this has not been operationalized.[111] Canada's failure to domesticate international norms reinforces a gap between rhetoric and rights enforcement.[112]

iv. Regulatory Fragmentation and Lack of Accountability

Jurisdictional division between federal (s. 91(24)) and provincial (s. 92A) powers creates regulatory voids, enabling blame-shifting and inaction. Agencies like BC's Environmental Assessment Office and the federal Impact Assessment Agency lack coherent frameworks to address gendered Indigenous concerns. Corporations fill gaps via voluntary CSR programs—unenforceable and ineffective—and often deploy private security forces without oversight, further weakening protections for Indigenous women. Canada's legal regime permits extractive industries to operate amid systemic gaps in enforcement, consent, coordination, and accountability. Without binding standards and gender-responsive oversight, the sexual exploitation of Indigenous women will remain insulated from effective legal remedy.

K. Policy and Governance

Canada's regulatory frameworks on resource extraction fail to protect Indigenous women, due not only to legal gaps but to deeper structural deficiencies: exclusion from governance, shallow gender analysis, corporate voluntarism, and institutional inertia.

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[107] European Commission, "Corporate Sustainability Due Diligence" (2022), online: https://ec.europa.eu/info/publications/proposal-directive-corporate-sustainable-due-diligence-and-annex_en.

[108] National Inquiry into Missing and Murdered Indigenous Women and Girls, *Reclaiming Power and Place: Executive Summary of the Final Report* (Ottawa: 2019) at 32–34; see also Anaya Harding, "Policing Indigenous Women: Examining the Structural Failures of Canadian Law Enforcement" (2020) 43:1 Dal LJ 117 at 122–125.

[109] United Nations, *United Nations Declaration on the Rights of Indigenous Peoples*, GA Res 61/295, UNGAOR, 61st Sess, Supp No 49, UN Doc A/RES/61/295 (2007) [UNDRIP]; *Convention on the Elimination of All Forms of Discrimination Against Women*, 18 December 1979, 1249 UNTS 13 (entered into force 3 September 1981) [CEDAW].

[110] *United Nations Declaration on the Rights of Indigenous Peoples Act*, SC 2021, c 14, s 4.

[111] Committee on the Elimination of Discrimination against Women, *General Recommendation No. 34 on the Rights of Rural Women*, CEDAW/C/GC/34 (2016) at paras 15–17.

[112] Brenda L Gunn, "Implementing UNDRIP in Canada: Challenges, Opportunities and Strategies" (2021) 41:2 NJCL 103 at 108–110.

i. Insufficient Indigenous Participation and Self-Determination

Despite *Haida Nation* and *Tsilhqot'in Nation*, which affirm a duty to consult and accommodate, Indigenous governments are still treated as stakeholders, not sovereign rights-holders. Regulatory processes marginalize Indigenous legal orders and exclude Indigenous women. UNDRIP and the UNDRIP Act (2021) call for full Indigenous participation but lack binding requirements for consent or gender inclusion, enabling approval of projects that threaten Indigenous women's safety.

ii. Weak Gender-Based Analysis in Resource Governance

Although GBA+ is federally mandated, its application in resource contexts is superficial.[113] The *Impact Assessment Act* nominally requires consideration of effects on Indigenous communities but lacks mechanisms for intersectional analysis, mandatory gendered risk assessments, or enforceable mitigation.[114] Regulatory bodies do not apply trauma-informed approaches to sexual violence.[115] Additionally, the failure to conduct intersectional analyses obscures how extraction-linked violence is disproportionately borne by disabled Indigenous women, youth, and those without secure housing, all of whom face compounded vulnerabilities that remain invisible within current regulatory frameworks.[116]

iii. Overreliance on Voluntary Corporate Commitments

Canada relies heavily on CSR initiatives, which are voluntary and lack oversight.[117] Internal company policies on Indigenous engagement or safety provide no binding recourse.[118] This shifts accountability from the state to private actors focused on shareholder interests, sustaining a regulatory vacuum where exploitation persists.[119]

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[113] Government of Canada, *Introduction to GBA+*, online: https://women-gender-equality.canada.ca/en/gender-based-analysis-plus.

[114] *Impact Assessment Act*, SC 2019, c 28, s 1, s 22(1)(c), (g).

[115] Pamela Palmater, "Shining Light on the Dark Places: Addressing Police Racism and Sexualized Violence Against Indigenous Women and Girls in the National Inquiry" (2016) 28:2 CJWL 253 at 260–61.

[116] Canadian Feminist Alliance for International Action (FAFIA), "Failing to Protect and Fulfill the Human Rights of Indigenous Women and Girls in Canada" (2016), Submission to UN CEDAW Committee, online: https://fafia-afai.org/en/cedaw/.

[117] Sara Seck, "Business, Human Rights, and Canadian Mining Lawyers" (2011) 49:1 Can YB Intl Law 51 at 59–60.

[118] Yellowhead Institute, *Special Reports and Features* (accessed 5 April 2025), online: https://yellowheadinstitute.org.

[119] Sara L Seck & Penelope Simons, "Resource Extraction and the Human Rights of Women and Girls: Policy Recommendations Associated with the Feminist International Assistance Policy" (2018), online: ResearchGate https://www.researchgate.net/publication/334204007_Resource_Extraction_and_the_Human_Rights_of_Women_and_Girls_Policy_Recommendations_Associated_with_the_Feminist_International_Assistance_Policy.

iv. Limited Accountability and Monitoring Mechanisms

No federal or provincial system tracks gendered violence tied to extraction.[120] MMIWG oversight recommendations remain largely unimplemented.[121] Indigenous women face systemic access barriers—limited legal aid,[122] remoteness,[123] and mistrust of police and courts.[124] The absence of Indigenous-led monitoring and redress perpetuates impunity.[125]

v. Bureaucratic Inertia and Institutional Indifference

Departments like Natural Resources Canada and Indigenous Services Canada show policy inertia. Despite repeated calls for Indigenous oversight and interagency coordination, implementation lags.[126] Institutional culture resists accountability and allows extractive harms to persist.[127]

vi. Exclusion of Indigenous Women from Policy Advisory Bodies

Section 35 consultations rarely ensure inclusion of Indigenous women.[128] Key advisory bodies—such as the Major Projects Management Office and regional energy boards—lack Indigenous female representation, rendering gendered harm invisible in policy formulation.[129]

vii. Lack of Coordinated, Gender-Specific Frameworks

Canada lacks a national framework on gendered violence in extraction. GBA+ is unevenly applied,[130] and no law mandates gender risk assessment or mitigation. Jurisdictional fragmentation results in siloed provincial systems and regulatory arbitrage.[131]

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[120] National Inquiry into Missing and Murdered Indigenous Women and Girls, *Reclaiming Power and Place: The Final Report*, vol 1a (2019) at 583.

[121] Yellowhead Institute, *Special Reports and Features* (accessed 5 April 2025), online: https://yellowheadinstitute.org.

[122] Native Women's Association of Canada, *Publications and Resources* (accessed 5 April 2025), online: https://nwac.ca.

[123] Canadian Research Institute for the Advancement of Women (CRIAW), *A Literature Synthesis Report on the Impacts of Resource Extraction for Indigenous Women* (2021) at 10.

[124] Derek Turkington, *Human Trafficking of Indigenous Women and Girls in Canada* (MA Research Project, University of Victoria, 2020) at 28–30.

[125] "Resource Extraction and the Human Rights of Women and Girls: Policy Recommendations Associated with the Feminist International Assistance Policy" (2018), online: ResearchGate https://www.researchgate.net/publication/334204007_Resource_Extraction_and_the_Human_Rights_of_Women_and_Girls_Policy_Recommendations_Associated_with_the_Feminist_International_Assistance_Policy.

[126] National Inquiry into Missing and Murdered Indigenous Women and Girls, *Reclaiming Power and Place: The Final Report*, vol 1a (2019) at 664.

[127] Yellowhead Institute, *Special Reports and Features* (accessed 5 April 2025), online: https://yellowheadinstitute.org.

[128] Native Women's Association of Canada, *Publications and Resources* (accessed 5 April 2025), online: https://nwac.ca.

[129] Amnesty International, *Out of Sight, Out of Mind: Gender, Indigenous Rights, and Energy Development in Northeast British Columbia* (2016) at 35.

[130] Government of Canada, *Introduction to GBA+*, Status of Women Canada (2018), online: https://women-gender-equality.canada.ca/en/gender-based-analysis-plus.

[131] Canadian Research Institute for the Advancement of Women (CRIAW), *A Literature Synthesis Report on the Impacts of Resource Extraction for Indigenous Women* (2021) at 8.

viii. Underfunding and Weak Enforcement Capacity

Where mechanisms exist, enforcement is under-resourced.[132] Oversight bodies lack funding,[133] local reporting is inaccessible,[134] and governments do not coordinate to track harm.[135] These failures entrench extractive industry impunity for gender-based violence.[136]

Despite judicial and public recognition of extractive harms,[137] Canada's governance structures remain structurally incapable of protecting Indigenous women.[138] Without Indigenous-led oversight, binding corporate obligations, and gender-focused reform, exploitation will persist under the guise of development.[139]

L. Reform and Conclusion

The systemic failures identified throughout this paper demand not just recognition but urgent reform. Addressing the sexual exploitation of Indigenous women in resource extraction requires an overhaul of Canada's legal, regulatory, and governance frameworks grounded in Indigenous self-determination, enforceable gender protections, and corporate accountability. This section proposes a multi-pronged reform agenda.[140]

i. Legislative and Regulatory Reform

1. Full Implementation of UNDRIP into Domestic Law

The UNDRIP Act must be strengthened through legislation that binds resource regulators to its core principles.[141] Regulatory regimes must require:

1. Free, Prior, and Informed Consent (FPIC) before project approval,[142]
2. Indigenous women's inclusion throughout decision-making,[143] and

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[132] National Inquiry into Missing and Murdered Indigenous Women and Girls, *Reclaiming Power and Place: The Final Report*, vol 1a (2019) at 652.

[133] Ibid at 655.

[134] Native Women's Association of Canada, *Publications and Resources*, online: https://www.nwac.ca/resources/ [accessed 5 April 2025].

[135] Derek Turkington, *Human Trafficking of Indigenous Women and Girls in Canada* (MA Research Project, University of Victoria, 2020) at 42.

[136] Amnesty International, *Out of Sight, Out of Mind: Gender, Indigenous Rights, and Energy Development in Northeast British Columbia* (2016) at 24.

[137] National Inquiry into Missing and Murdered Indigenous Women and Girls, *Reclaiming Power and Place: The Final Report*, vol 1a (2019) at 666.

[138] "A Rights-Based Approach to Indigenous Women and Gender Inequities in Resource Development in Northern Canada" (2018) at 9.

[139] Yellowhead Institute, *Special Reports and Features*, [accessed 5 April 2025].

[140] National Inquiry into Missing and Murdered Indigenous Women and Girls, *Reclaiming Power and Place: The Final Report*, vol 1a (2019) at 183–185.

[141] United Nations Declaration on the Rights of Indigenous Peoples Act, SC 2021, c 14.

[142] United Nations, *United Nations Declaration on the Rights of Indigenous Peoples*, GA Res 61/295, UNGAOR, 61st Sess, Supp No 49, UN Doc A/61/49 (2007), art 32(2).

[143] United Nations, *Convention on the Elimination of All Forms of Discrimination Against Women*, 18 December 1979, 1249 UNTS 13 (entered into force 3 September 1981), General Recommendation No. 39, UN Doc CEDAW/C/GC/39 at para 43.

3. Mandatory gender-based impact assessments.[144]

Enforcement provisions must impose penalties on noncompliant regulators and proponents.[145]

2. Enactment of Mandatory Human Rights Due Diligence (mHRDD) Laws

Canada should adopt mHRDD legislation, modeled on European frameworks, requiring companies to prevent, mitigate, and report human rights harms—including gendered violence—across operations and supply chains.[146] Violations should carry civil, regulatory, and criminal consequences.[147]

3. Strengthening the Impact Assessment Act

Amendments must:

1. Mandate GBV risk assessments in all extractive projects;[148]
2. Require binding mitigation and compliance plans;[149] and
3. Establish independent oversight bodies, preferably Indigenous led, for territories affected.[150]

ii. Governance Reform

1. Indigenous-Led Oversight Mechanisms

Canada must create well-funded, Indigenous-led bodies to:

1. Conduct independent assessments,[151]
2. Oversee corporate compliance on gender and human rights,[152]
3. Investigate violence linked to extractive industries.[153]

This aligns with principles of self-determination and restorative justice.[154]

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[144] Impact Assessment Act, SC 2019, c 28, s 1, s 22(1)(c); see also Yellowhead Institute, "Special Reports and Features" (accessed 5 April 2025).

[145] Native Women's Association of Canada, "Publications and Resources" (accessed 5 April 2025); see also Amnesty International, *Out of Sight, Out of Mind: Gender, Indigenous Rights, and Energy Development in Northeast British Columbia* (2016) at 15–18.

[146] European Commission, *Proposal for a Directive on Corporate Sustainability Due Diligence and amending Directive (EU) 2019/1937*, COM/2022/71 final.

[147] "Resource Extraction and the Human Rights of Women and Girls" (Conference Paper, Schulich School of Law) [Digital Commons] at 10.

[148] Impact Assessment Act, SC 2019, c 28, s 1.

[149] National Inquiry into Missing and Murdered Indigenous Women and Girls, *Reclaiming Power and Place: The Final Report*, vol 1a (2019) at 644–646.

[150] Native Women's Association of Canada, *Publications and Resources* (accessed 5 April 2025), online: https://www.nwac.ca.

[151] Yellowhead Institute, *Special Reports and Features* (accessed 5 April 2025), online: https://yellowheadinstitute.org.

[152] United Nations Declaration on the Rights of Indigenous Peoples Act, SC 2021, c 14.

[153] Amnesty International, *Out of Sight, Out of Mind: Gender, Indigenous Rights, and Energy Development in Northeast British Columbia* (2016) at 28–30.

[154] United Nations, *United Nations Declaration on the Rights of Indigenous Peoples*, GA Res 61/295, UNGAOR, 61st Sess, Supp No 49, UN Doc A/61/49 (2007) at arts 18, 22.

2. Institutionalization of Gender-Responsive Governance

GBA+ must be embedded across regulatory agencies through:

1. Mandatory training for officials,[155]
2. Appointment of Indigenous women to agencies,[156] and
3. Public reporting on gendered impacts and mitigation efforts.[157]

iii. Corporate Accountability Reform

1. Binding Obligations and Independent Monitoring

CSR must be replaced by enforceable corporate duties. Companies operating near Indigenous lands must be subject to independent audits and mandatory disclosure of gendered impacts.[158]

2. Access to Remedies for Victims

Indigenous women affected by extractive violence must have access to:

1. Specialized legal aid;[159]
2. Mechanisms for civil suits against both corporate and government actors;[160] and
3. Reparations programs that recognize collective Indigenous harms.[161]

iv. Cultural and Educational Reform

To dismantle the societal conditions enabling violence, reforms must include:

1. Mandatory education on colonialism, extraction, and gender violence;[162]
2. Corporate training addressing anti-Indigenous racism and GBV;[163] and
3. Investment in Indigenous-led healing, revitalization, and cultural programs.[164]

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[155] Government of Canada, *GBA+ Implementation Survey Results 2022–23* (Ottawa: Women and Gender Equality Canada, 2023).

[156] National Inquiry into Missing and Murdered Indigenous Women and Girls, *Reclaiming Power and Place: The Final Report*, vol 1a (2019) at 633–635.

[157] Native Women's Association of Canada, *Publications and Resources* (accessed 5 April 2025), online: https://www.nwac.ca.

[158] United Nations Human Rights Council, *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework*, UN Doc HR/PUB/11/04 (2011).

[159] Native Women's Association of Canada, *Publications and Resources* (accessed 5 April 2025), online: https://www.nwac.ca.

[160] "Resource Extraction and the Human Rights of Women and Girls" (Conference Paper, Schulich School of Law) [Digital Commons].

[161] Amnesty International, *Out of Sight, Out of Mind: Gender, Indigenous Rights, and Energy Development in Northeast British Columbia* (2016).

[162] National Inquiry into Missing and Murdered Indigenous Women and Girls, *Reclaiming Power and Place: The Final Report*, vol 1a (2019) at 174–178.

[163] Yellowhead Institute, *Special Reports and Features* (accessed 5 April 2025), online: https://yellowheadinstitute.org.

[164] Native Women's Association of Canada, *Publications and Resources* (accessed 5 April 2025), online: https://www.nwac.ca.

v. Additional Systemic Reforms

1. Embedding FPIC and Indigenous Legal Orders

Consent must replace consultation as the standard for extractive approvals. Legislative amendments should operationalize FPIC through Indigenous legal systems, affirming Indigenous law alongside Canadian law and resourcing Indigenous nations to enforce protections.[165]

2. Mandatory GBV Impact Assessments

Assessments must be trauma-informed, intersectional, and Indigenous-led. Amendments to the Impact Assessment Act and provincial equivalents should compel companies to identify, mitigate, and publicly report on gendered risks—like trafficking, displacement, and violence—as a condition of project approval.[166]

3. Indigenous-Led Monitoring and Complaint Mechanisms

MMIWG Calls for Justice should be implemented through independent, Indigenous-led institutions with powers to investigate, issue public reports, compel disclosure, and refer matters for enforcement. A national Indigenous women's ombudsperson should be appointed with jurisdiction over all extractive activity on Indigenous lands. A centralized public database on industry-linked violence must be established.[167]

4. Cross-Jurisdictional Accountability and Enforcement

Canada must harmonize environmental, human rights, and policing standards across jurisdictions, enforceable through intergovernmental protocols.[168] Provincial and federal regulators must be subject to national performance audits.[169] Private security operating near Indigenous communities must comply with uniform accountability standards, including licensing and use-of-force restrictions.[170]

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[165] United Nations Declaration on the Rights of Indigenous Peoples Act, SC 2021, c 14, s 4; *United Nations Declaration on the Rights of Indigenous Peoples*, GA Res 61/295, UNGAOR, 61st Sess, Supp No 49, UN Doc A/61/49 (2007) at arts 18–19.

[166] Impact Assessment Act, SC 2019, c 28, s 1; "Resource Extraction and the Human Rights of Women and Girls" (Conference Paper, Schulich School of Law) [Digital Commons].

[167] National Inquiry into Missing and Murdered Indigenous Women and Girls, *Reclaiming Power and Place: The Final Report*, vol 1a (2019) at Calls for Justice 1.7, 5.6; Native Women's Association of Canada, *Publications and Resources* (accessed 5 April 2025), online: https://www.nwac.ca.

[168] Public Safety Act, SC 2004, c 15; Canadian Environmental Protection Act, SC 1999, c 33.

[169] National Inquiry into Missing and Murdered Indigenous Women and Girls, *Reclaiming Power and Place: The Final Report*, vol 1a (2019) at Calls for Justice 1.10.

[170] Amnesty International, *Out of Sight, Out of Mind: Gender, Indigenous Rights, and Energy Development in Northeast British Columbia* (2016) at 24–27.

5. Paradigm Shift in Policy Priorities

Economic development must no longer trump safety and justice. Gender-specific safety obligations must become core policy mandates. Federal subsidies, infrastructure support, and development funding should be conditioned on gender compliance and Indigenous governance participation. Budget allocations must increase for Indigenous legal systems, safe housing, legal aid, and land-based healing services.[171]

The ongoing sexual exploitation of Indigenous women near resource extraction sites is not incidental—it is the foreseeable product of colonial governance, legal neglect, and corporate impunity.[172] Rhetorical commitments under UNDRIP, CEDAW, and the MMIWG Calls for Justice are insufficient without binding reforms.[173] Canada must enact structural change: centering Indigenous governance, enforcing gender protections, and mandating accountability. True reconciliation requires not consultation but empowerment; not performative justice but systemic transformation.[174]

~ PART V – ANTICIPATED CONTRIBUTIONS ~

M. Doctrinal Innovations

This paper advances doctrinal development in Canadian law by reconceptualizing resource extraction as a site of gendered colonial violence. Drawing on Indigenous legal orders,[175] international human rights law,[176] and constitutional doctrine,[177] it contributes to legal debates on systemic harm, Indigenous women's safety, and transformative legal reform. By bridging doctrinal critique with Indigenous-led justice models,[178] it offers original insight and concrete legal proposals to restructure Canada's extractive governance regime.

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[171] Native Women's Association of Canada, *Publications and Resources* (accessed 5 April 2025); Yellowhead Institute, *Special Reports and Features* (accessed 5 April 2025).

[172] Barbara Bassett, "Resource Extraction, Indigenous Women, and the Violence of the Everyday" (2024) [unpublished manuscript, Athabasca University].

[173] United Nations Declaration on the Rights of Indigenous Peoples Act, SC 2021, c 14; United Nations, *Convention on the Elimination of All Forms of Discrimination Against Women*, 18 December 1979, 1249 UNTS 13 (entered into force 3 September 1981); National Inquiry into Missing and Murdered Indigenous Women and Girls, *Reclaiming Power and Place: The Final Report*, vol 1a (2019) at Calls for Justice 1.1–1.8.

[174] John Borrows, *Freedom and Indigenous Constitutionalism* (Toronto: University of Toronto Press, 2016) at 284; Sarah Carter, *Imperial Plots: Women, Land, and the Spadework of British Colonialism on the Canadian Prairies* (Winnipeg: University of Manitoba Press, 2016) at 216.

[175] Val Napoleon, "Living Together: Gitksan Legal Reasoning as a Foundation for Consent" (2005) 48:1 McGill LJ 143; John Borrows, *Canada's Indigenous Constitution* (Toronto: University of Toronto Press, 2010) at 159.

[176] United Nations, *Convention on the Elimination of All Forms of Discrimination Against Women*, 18 December 1979, 1249 UNTS 13 (entered into force 3 September 1981); Rome Statute of the International Criminal Court, 17 July 1998, UN Doc A/CONF.183/9 (entered into force 1 July 2002).

[177] Constitution Act, 1982, being Schedule B to the Canada Act 1982 (UK), 1982, c 11, s 35; Reference re Secession of Quebec, [1998] 2 SCR 217.

[178] Leanne Betasamosake Simpson, *As We Have Always Done: Indigenous Freedom Through Radical Resistance* (Minneapolis: University of Minnesota Press, 2017); John Borrows, "Indigenous Legal Traditions in Canada" (2005) 19:1 Wash UJL & Pol'y 167.

i. Reimagining Section 35 as a Gender-Enabling Provision

Section 35 of the Constitution Act, 1982 has typically been interpreted in gender-neutral terms.[179] This paper proposes a reinterpretation of section 35 as a gender-enabling provision that aligns with Canada's obligations under UNDRIP[180] and CEDAW.[181] Specifically, it argues that section 35 encompasses collective and gendered dimensions of Indigenous self-determination, particularly where resource extraction poses foreseeable risks to Indigenous women.[182] Free, Prior, and Informed Consent (FPIC) must include the meaningful participation of Indigenous women as rights-holders.[183] This approach strengthens the constitutional foundation for integrating gender justice into Indigenous rights jurisprudence.[184]

ii. Integrating UNDRIP and CEDAW into Administrative Reasonableness Review

Building on the *Vavilov* framework for reasonableness review,[185] this paper argues that administrative decisions involving Indigenous rights and gendered harm must be assessed for alignment with Canada's international human rights obligations.[186] Regulatory bodies—such as the Impact Assessment Agency and provincial ministries—must consider UNDRIP,[187] CEDAW,[188] and the MMIWG Calls for Justice[189] when evaluating project approvals. Where foreseeable gendered violence risks are ignored, resulting decisions should be deemed substantively unreasonable.[190] This proposal deepens the intersection between administrative law and international legal norms, particularly in the resource governance context.

iii. Recognizing Corporate Complicity in Gendered Human Rights Violations

This paper expands Canadian legal doctrine on corporate accountability by advocating for the recognition of corporate complicity in systemic gendered violence. Drawing on transnational litigation and European mHRDD (mandatory human

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[179] *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (UK), 1982, c 11, s 35.

[180] *United Nations Declaration on the Rights of Indigenous Peoples*, GA Res 61/295, UNGAOR, 61st Sess, Supp No 49, UN Doc A/61/49 (2007); *United Nations Declaration on the Rights of Indigenous Peoples Act*, SC 2021, c 14.

[181] *Convention on the Elimination of All Forms of Discrimination Against Women*, 18 December 1979, 1249 UNTS 13 (entered into force 3 September 1981).

[182] National Inquiry into Missing and Murdered Indigenous Women and Girls, *Reclaiming Power and Place: The Final Report*, vol 1a (2019) at 583–584.

[183] Val Napoleon, "Indigenous Legal Orders: Reflections on Reconciliation and Restoration" in Law Commission of Canada, ed, *Indigenous Legal Traditions* (Vancouver: UBC Press, 2007) 27 at 38.

[184] John Borrows, *Freedom and Indigenous Constitutionalism* (Toronto: University of Toronto Press, 2016) at 92–96.

[185] *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 83–91, [2019] 4 SCR 653.

[186] Dwight Newman, "International Law in the Vavilov Framework" (2020) 33:2 Can J Admin L & Prac 165 at 171.

[187] *United Nations Declaration on the Rights of Indigenous Peoples*, GA Res 61/295, UNGAOR, 61st Sess, Supp No 49, UN Doc A/61/49 (2007); *United Nations Declaration on the Rights of Indigenous Peoples Act*, SC 2021, c 14.

[188] *Convention on the Elimination of All Forms of Discrimination Against Women*, 18 December 1979, 1249 UNTS 13 (entered into force 3 September 1981), General Recommendation No 34, UN Doc CEDAW/C/GC/34 (2016).

[189] National Inquiry into Missing and Murdered Indigenous Women and Girls, *Reclaiming Power and Place: The Final Report*, vol 1a (2019) at 728–730.

[190] Mary Liston, "Substantive Reasonableness Review Post-Vavilov: Bridging Administrative and Constitutional Law" (2020) 33:2 Can J Admin L & Prac 165 at 180.

rights and environmental due diligence) regimes,[191] it proposes a positive legal duty for extractive companies to identify, prevent, and remediate foreseeable harms.[192] Inaction in the face of known risks should give rise to tort liability,[193] fiduciary breach,[194] and, where applicable, criminal exposure.[195] This doctrinal extension frames corporate silence as complicity, advancing Canadian enterprise liability jurisprudence.[196]

iv. Operationalizing Indigenous Legal Orders in Resource Regulation

Rather than treating Indigenous law as cultural or consultative input, this paper calls for its recognition as binding legal authority in resource governance.[197] It proposes the creation of Indigenous-led regulatory bodies and tribunals with enforceable powers over project approvals, compliance, and enforcement.[198] Such legal pluralism is grounded in section 35's promise of Aboriginal self-government[199] and supported by UNDRIP Articles 18–20.[200] This doctrinal shift includes explicit space for Indigenous women's leadership within these legal orders, advancing a decolonial feminist jurisprudence that centers Indigenous knowledge and authority.[201]

v. Redefining Public Interest in Impact Assessment Law

The concept of "public interest" in Canadian environmental and resource law has historically emphasized economic growth, employment, or national development.[202] This paper redefines public interest through an intersectional lens that includes Indigenous women's safety, dignity, and community well-being.[203] Where project approvals fail to consider gendered violence risks, they should be challengeable as inconsistent with both statutory objectives[204] and Charter values.[205] This proposal aligns environmental law with principles of substantive equality[206] and gender-responsive decision-making.[207]

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[191] European Parliament and Council, *Corporate Sustainability Due Diligence Directive*, COM(2022) 71 final.

[192] Penelope Simons & Audrey Macklin, *The Governance Gap: Extractive Industries, Human Rights, and the Home State Advantage* (London: Routledge, 2014) at 88–95.

[193] *Doe v Exxon Mobil Corp*, 654 F Supp 2d 11 (DDC 2009).

[194] Erika George, *Incorporating Rights: Strategies to Advance Corporate Accountability* (Oxford: Oxford University Press, 2021) at 142–145.

[195] *Rome Statute of the International Criminal Court*, 17 July 1998, UN Doc A/CONF.183/9 (entered into force 1 July 2002), art 25(3)(c).

[196] Saptarishi Bandopadhyay, "Corporate Complicity and Legal Accountability in Canada" (2020) 55:2 Osgoode Hall LJ 331 at 352–353.

[197] John Borrows, *Canada's Indigenous Constitution* (Toronto: University of Toronto Press, 2010) at 34–38.

[198] Val Napoleon, "Thinking About Indigenous Legal Orders" (2007) National Centre for First Nations Governance 1 at 8–10.

[199] *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (UK), 1982, c 11, s 35.

[200] *United Nations Declaration on the Rights of Indigenous Peoples*, GA Res 61/295, UNGAOR, 61st Sess, Supp No 49, UN Doc A/61/49 (2007), arts 18–20.

[201] Leanne Betasamosake Simpson, *As We Have Always Done: Indigenous Freedom Through Radical Resistance* (Minneapolis: University of Minnesota Press, 2017) at 145–148.

[202] Nathalie Chalifour, "Environmental Justice and the Public Interest in Environmental Decision-Making" in Meinhard Doelle & Chris Tollefson, eds, *Environmental Law: Cases and Materials*, 3rd ed (Toronto: Carswell, 2019) 733 at 739.

[203] Canadian Research Institute for the Advancement of Women (CRIAW), *A Literature Synthesis Report on the Impacts of Resource Extraction for Indigenous Women* (2021) at 14.

[204] *Impact Assessment Act*, SC 2019, c 28, s 1, s 2(1).

[205] *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (UK), 1982, c 11, ss 7, 15.

[206] Daphne Gilbert & Diana Majury, "Critical Comparisons: The Supreme Court of Canada Dooms Section 15" (2006) 24:1 Windsor YB Access Just 111 at 119–120.

[207] UN Women, *Gender-Responsive National Adaptation Plans* (New York: United Nations, 2021) at 22.

vi. Advancing Binding Human Rights Due Diligence Norms

The paper contributes to Canadian legal scholarship supporting the adoption of binding mHRDD legislation.[208] It calls for statutory duties requiring extractive corporations to conduct gender-sensitive human rights impact assessments, adopt mitigation strategies, and disclose risks transparently.[209] Drawing on French and EU models, it recommends civil, regulatory, and criminal penalties for non-compliance.[210] It further proposes integrating mHRDD compliance into public procurement eligibility[211] and corporate disclosure frameworks.[212] By doing so, it centers Indigenous women's safety within the broader regime of corporate accountability and resource regulation.[213]

~ PART VI – CONCLUSION ~

N. Conclusion

This paper challenges the doctrinal and structural limitations of Canadian law, which continue to leave Indigenous women unprotected in the face of extractive capitalism.[214] Drawing on Indigenous legal traditions,[215] international human rights law,[216] and Canadian constitutional principles,[217] it advances a multi-dimensional model of legal reform. The proposed framework—centering Indigenous governance, binding industry obligations, and enforceable gender protections—lays the groundwork for a transformative legal architecture.[218] Despite regulatory failures, Indigenous women and grassroots organizations continue to lead resistance efforts, asserting territorial rights and demanding accountability.[219] These movements represent living embodiments of Indigenous law and governance, offering both legal and moral leadership where state institutions have failed.[220] Ultimately, reconciliation cannot be achieved through rhetoric or consultation alone. It

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[208] Penelope Simons & Audrey Macklin, *The Governance Gap: Extractive Industries, Human Rights, and the Home State Advantage* (London: Routledge, 2014) at 287–289.

[209] "Resource Extraction and the Human Rights of Women and Girls" (Conference Paper, Schulich School of Law) [Digital Commons] at 12.

[210] *Loi n° 2017-399 du 27 mars 2017* relative au devoir de vigilance des sociétés mères et des entreprises donneuses d'ordre (France); European Commission, *Corporate Sustainability Due Diligence Directive Proposal*, COM(2022) 71 final.

[211] European Coalition for Corporate Justice, "How Public Procurement Can Advance Human Rights" (2021) at 6–9.

[212] OECD, *Due Diligence Guidance for Responsible Business Conduct* (Paris: OECD Publishing, 2018) at 46–47.

[213] Sarah Morales, "Staking Claims: The Movement Toward Corporate Accountability for Violence Against Indigenous Women" in J Borrows et al, *Indigenous Justice: Theories and Practices for a Postcolonial World* (Toronto: University of Toronto Press, forthcoming).

[214] Angela Cameron, "Stopping the Violence Against Aboriginal Women: A Legal Reform Agenda" (2006) 9:2 CJWL 46 at 51.

[215] John Borrows, *Canada's Indigenous Constitution* (Toronto: University of Toronto Press, 2010) at 136–139.

[216] Convention on the Elimination of All Forms of Discrimination Against Women, 18 December 1979, 1249 UNTS 13 (entered into force 3 September 1981).

[217] Constitution Act, 1982, being Schedule B to the Canada Act 1982 (UK), 1982, c 11, s 35.

[218] Tracey Lindberg, "Critical Indigenous Legal Theory (CILT): The Role of Indigenous Legal Orders in Canada's Lawscape" (2015) 10:1 Indigenous LJ 17 at 24–27.

[219] Yellowhead Institute, Special Reports and Features (accessed 5 April 2025).

[220] Leanne Betasamosake Simpson, *As We Have Always Done: Indigenous Freedom Through Radical Resistance* (Minneapolis: University of Minnesota Press, 2017) at 213–215.

requires structural change: Indigenous self-determination must be implemented, not merely acknowledged;[221] gender-specific harms must be prevented, not tolerated;[222] and corporate actors must be held accountable, not shielded.[223] This paper provides a doctrinal foundation for such transformation and affirms that safety, justice, and Indigenous women's leadership must define Canada's future in resource governance.[224]

[221] United Nations Declaration on the Rights of Indigenous Peoples Act, SC 2021, c 14.

[222] National Inquiry into Missing and Murdered Indigenous Women and Girls, *Reclaiming Power and Place: The Final Report*, vol 1a (2019).

[223] Penelope Simons & Audrey Macklin, *The Governance Gap: Extractive Industries, Human Rights, and the Home State Advantage* (London: Routledge, 2014) at 294–296.

[224] Native Women's Association of Canada, *Publications and Resources* (accessed 5 April 2025).

ANNOTATED BIBLIOGRAPHY

SCHEDULE "A" – LEGISLATION AND LEGAL INSTRUMENTS

1. Canadian Charter of Rights and Freedoms, Part I of the Constitution Act, 1982, being Schedule B to the Canada Act 1982 (UK), 1982, c 11.
2. Canadian Environmental Protection Act, 1999, SC 1999, c 33.
3. Canadian Human Rights Act, RSC 1985, c H-6.
4. Committee on the Elimination of Discrimination Against Women, *General Recommendation No 34 on the Rights of Rural Women*, UNCEDAWOR, 59th Sess, UN Doc CEDAW/C/GC/34 (2016).
5. Committee on the Elimination of Discrimination Against Women, *General Recommendation No 39*, UN Doc CEDAW/C/GC/39.
6. Constitution Act, 1982, being Schedule B to the Canada Act 1982 (UK), 1982, c 11.
7. *Convention on the Elimination of All Forms of Discrimination Against Women*, 18 December 1979, 1249 UNTS 13 (entered into force 3 September 1981).
8. Criminal Code, RSC 1985, c C-46.
9. European Commission, *Proposal for a Directive on Corporate Sustainability Due Diligence*, COM(2022) 71 final.
10. European Parliament and Council, *Corporate Sustainability Due Diligence Directive*, COM(2022) 71 final.
11. France, *Loi n° 2017-399 du 27 mars 2017 relative au devoir de vigilance des sociétés mères et des entreprises donneuses d'ordre*.
12. Impact Assessment Act, SC 2019, c 28.
13. Indian Act, RSC 1985, c I-5.
14. Public Safety Act, SC 2004, c 15.
15. *Rome Statute of the International Criminal Court*, 17 July 1998, 2187 UNTS 90 (entered into force 1 July 2002).
16. Royal Proclamation, 1763 (UK), reprinted in RSC 1985, App II, No 1.
17. *United Nations Declaration on the Rights of Indigenous Peoples*, GA Res 61/295, UNGAOR, 61st Sess, Supp No 49, UN Doc A/61/49 (2007).
18. United Nations Declaration on the Rights of Indigenous Peoples Act, SC 2021, c 14.
19. United Nations Human Rights Council, *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework*, UN Doc HR/PUB/11/04 (2011).

SCHEDULE "B" – LIST OF AUTHORITIES

1. *Calder v British Columbia (AG)*, [1973] SCR 313, 34 DLR (3d) 145.
2. *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65, [2019] 4 SCR 653.
3. *Clyde River (Hamlet) v Petroleum Geo-Services Inc.*, 2017 SCC 40.
4. *Delgamuukw v British Columbia*, [1997] 3 SCR 1010, 153 DLR (4th) 193.
5. *Doe v Exxon Mobil Corp*, 654 F Supp 2d 11 (DDC 2009).
6. *Haida Nation v British Columbia (Minister of Forests)*, 2004 SCC 73.
7. *Reference re Secession of Quebec*, [1998] 2 SCR 217.
8. *Tsilhqot'in Nation v British Columbia*, 2014 SCC 44.

SCHEDULE "C" – SECONDARY SOURCES

1. Alook, Angele, "Indigenous Life Courses: Racialized Gendered Life Scripts and the Labour of Living in the Oil Sands" (2019) 6:2 *Intl J Indigenous Health* 23.
2. Arnott, Sheri L, "Environmental Justice and Gender-Based Violence: Contemporary Legal Invisibility" (2021) 49:2 *Environs* 215.
3. Bassett, Barbara G, "Colonialism and the Politics of Gender in Canada's Extractive Industries" (2015) 10:1 *Canadian J Women & L* 35.
4. Blackstock, Cindy, "Reconciliation Means Not Saying Sorry Twice" (2016) 49:1 *UBC L Rev* 179.
5. Borrows, John, *Canada's Indigenous Constitution* (Toronto: University of Toronto Press, 2010).
6. Borrows, John, *Freedom and Indigenous Constitutionalism* (Toronto: University of Toronto Press, 2016).
7. Borrows, John, "Indigenous Legal Traditions in Canada" (2005) 19:1 *Wash UJL & Pol'y* 167.
8. Carson, Rachel, "Environmental Justice and Indigenous Women's Resistance" in Andrea Smith, ed, *Conquest: Sexual Violence and American Indian Genocide* (Durham: Duke University Press, 2005) 52.
9. Carter, Sarah, *The Importance of Being Monogamous: Marriage and Nation Building in Western Canada to 1915* (Edmonton: University of Alberta Press, 2008).
10. Carter, Sarah, *Imperial Plots: Women, Land, and the Spadework of British Colonialism on the Canadian Prairies* (Winnipeg: University of Manitoba Press, 2016).
11. Chalifour, Nathalie, "Environmental Justice and the Public Interest in Environmental Decision-Making" in Meinhard Doelle & Chris Tollefson, eds, *Environmental Law: Cases and Materials*, 3rd ed (Toronto: Carswell, 2019) 733.

12. Coulthard, Glen, *Red Skin, White Masks: Rejecting the Colonial Politics of Recognition* (Minneapolis: University of Minnesota Press, 2014).
13. Deer, Sarah, *The Beginning and End of Rape: Confronting Sexual Violence in Native America* (Minneapolis: University of Minnesota Press, 2015).
14. Eberts, Mary, "Being Aboriginal: Legal Dislocation, and the Canadian Justice System" in Royal Commission on Aboriginal Peoples, *Aboriginal Peoples and the Justice System* (Ottawa: Minister of Supply and Services Canada, 1993) 44.
15. Eberts, Mary, "Repairing the Hole in the Sky: The Duty to Consult and the Protection of Indigenous Women's Rights" in Law Commission of Ontario, *Roundtable on Violence Against Indigenous Women and Access to Justice* (Toronto: LCO, 2012) 1.
16. George, Erika, *Incorporating Rights: Strategies to Advance Corporate Accountability* (Oxford: Oxford University Press, 2021).
17. Gilbert, Daphne & Diana Majury, "Critical Comparisons: The Supreme Court of Canada Dooms Section 15" (2006) 24:1 *Windsor YB Access Just* 111.
18. Gunn, Brenda L, *Implementing the United Nations Declaration on the Rights of Indigenous Peoples in Canada* (Winnipeg: Assembly of First Nations, 2011).
19. Gunn, Brenda L, "Implementing UNDRIP in Canada: Challenges, Opportunities and Strategies" (2021) 41:2 *NJCL* 103.
20. Harding, Anaya, "Policing Indigenous Women: Examining the Structural Failures of Canadian Law Enforcement" (2020) 43:1 *Dal LJ* 117.
21. Hunt, Sarah, "Embodying Self-Determination: Beyond the Gender Binary" in Emily Snyder, Val Napoleon & John Borrows, eds, *Gender, Power, and Justice in the Law: Indigenous Feminist Legal Theory* (Toronto: Thomson Reuters, 2022) 215.
22. Hunt, Sarah, "More than a Poster Campaign: Redefining Colonial Violence" (2013) 26:3 *Briarpatch* 4.
23. Jobin, Shalene, "Coyote Collisions: Sovereignty, Colonialism, and the Governance of Energy Development in Alberta" (2019) 34:2 *CJLS* 171.
24. Jobin, Shalene, *Nehiyawewin: Land-Based Governance, Economic Alternatives and the Struggle for Indigenous Justice* (Winnipeg: ARP Books, 2020).
25. Klein, Naomi, *This Changes Everything: Capitalism vs. The Climate* (New York: Simon & Schuster, 2014).
26. LaRocque, Emma, "Metis and Feminist: Ethical Reflections on Feminism, Human Rights and Decolonization" in Joyce Green, ed, *Making Space for Indigenous Feminism* (Winnipeg: Fernwood Publishing, 2007) 53.
27. Lindberg, Tracey, "Critical Indigenous Legal Theory (CILT): The Role of Indigenous Legal Orders in Canada's Lawscape" (2015) 10:1 *Indigenous LJ* 17.

28. Liston, Mary, "Substantive Reasonableness Review Post-Vavilov: Bridging Administrative and Constitutional Law" (2020) 33:2 *Can J Admin L & Prac* 165.
29. Mahoney, Kathleen, "Canadian Indigenous Women and the Right to Security" in David Milward, ed, *Aboriginal Justice and the Charter: Realizing a Culturally Sensitive Interpretation of Legal Rights* (Vancouver: UBC Press, 2013) 114.
30. Morales, Sarah, "Staking Claims: The Movement Toward Corporate Accountability for Violence Against Indigenous Women" in John Borrows et al, *Indigenous Justice: Theories and Practices for a Postcolonial World* (Toronto: University of Toronto Press, forthcoming).
31. Napoleon, Val, "Indigenous Legal Orders: Reflections, Contexts, and Comparisons" in Markus Dubber & Tatjana Hörnle, eds, *The Oxford Handbook of Criminal Law* (Oxford: Oxford University Press, 2014) 800.
32. Napoleon, Val, "Living Together: Gitksan Legal Reasoning as a Foundation for Consent" (2005) 48:1 *McGill LJ* 143.
33. Napoleon, Val, "Thinking About Indigenous Legal Orders" (2007) *National Centre for First Nations Governance* 1.
34. Napoleon, Val, "Thinking About Indigenous Legal Orders" in René Provost, ed, *Culture in the Domains of Law* (Cambridge: Cambridge University Press, 2017) 229.
35. Newman, Dwight, "International Law in the Vavilov Framework" (2020) 33:2 *Can J Admin L & Prac* 165.
36. Palmater, Pamela, "Shining Light on the Dark Places: Addressing Police Racism and Sexualized Violence Against Indigenous Women and Girls in the National Inquiry" (2016) 62:4 *McGill LJ* 1001.
37. Razack, Sherene H, *Dying from Improvement: Inquests and Inquiries into Indigenous Deaths in Custody* (Toronto: University of Toronto Press, 2015).
38. Scott, Dayna Nadine, "Gender Justice and Fossil Fuel Development in Canada" (2017) 30:3 *CJWL* 411.
39. Seck, Sara L, "Business, Human Rights and Canadian Mining in Developing Countries: A Case of Corporate 'Do Not Ask, Do Not Tell'?" in Benjamin J Richardson et al, eds, *Environmental Law for Sustainability* (Oxford: Hart, 2009) 259.
40. Seck, Sara L, "Corporate Social Responsibility and Indigenous Rights: Lessons from the Canadian Experience?" in Robert J Currie & Hugh Kindred, eds, *International Law: Chiefly as Interpreted and Applied in Canada*, 9th ed (Toronto: Emond, 2019) 478.
41. Seck, Sara L & Penelope Simons, "Resource Extraction and the Human Rights of Women and Girls: Policy Recommendations Associated with the Feminist International Assistance Policy" (2018), online: ResearchGate https://www.researchgate.net/publication/334204007.
42. Simons, Penelope & Audrey Macklin, *The Governance Gap: Extractive Industries, Human Rights, and the Home State Advantage* (London: Routledge, 2014).

43. Snyder, Emily, Val Napoleon & John Borrows, "Gender and Violence: Drawing on Indigenous Legal Resources" (2015) 48:2 *UBC L Rev* 593.
44. Stark, Heidi Kiiwetinepinesiik, "Criminal Empire: The Making of the Savage in a Lawless Land" (2016) 19:1 *Theory & Event* 1.
45. Turkington, Derek, *Human Trafficking of Indigenous Women and Girls in Canada* (MA Research Project, University of Victoria, 2020).
46. Van Kirk, Sylvia, *Many Tender Ties: Women in Fur-Trade Society, 1670–1870* (Norman: University of Oklahoma Press, 1980).
47. Venton, Margot et al, *Environmental Assessment in British Columbia: Recommendations for Reform* (Vancouver: West Coast Environmental Law, 2020).
48. Yellowhead Institute, *Special Reports and Features* (accessed 5 April 2025), online: https://yellowheadinstitute.org.

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