

Chapter 8.

Canada Is a Bad Company

Police as Colonial Mercenaries for State and Capital

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When Kanahus Manuel and her brother-in-law were surrounded on highway 5 in British Columbia by Royal Canadian Mounted Police officers, she experienced a terrifying moment as one officer, Bowden, slowly pulled on a pair of black gloves. “I thought he was going to kill me.” He did attack her, tackling the Secwepemc woman to the ground, forcing her face into the pavement and breaking her wrist in the process. But it would be ten hours before she received medical attention, in shackles, while eight officers guarded her bed.

The arrest was closer to an abduction than a legal procedure. On the morning of Saturday, October 19, 2019, Kanahus Manuel and Isha Jules were arrested for requesting that construction workers leave the area, where they were working on Trans Mountain pipeline infrastructure without Secwepemc consent. The workers were near a camp Manuel, Jules, and others in the Tiny House Warriors group had set up to protect the territory from pipeline construction.

When police arrived and slammed Manuel to the ground, she and Jules were told their arrest was on account of “bugging” workers. Eventually, they were charged with “mischief” and “intimidation,” but it took the RCMP almost the entire day to come up with charges.

These charges were communicated to the pair's legal counsel ten hours later from an ambulance en route to a hospital in Kamloops, British Columbia—130 kilometres south of Clearwater—where he had been told to wait to see his clients.

If this was not an abduction, it is unclear which, if any, laws were applied to the arrest. Following their violent handcuffing, Manuel and Jules were taken to the Clearwater police station, 200 kilometres south of where they were arrested. The two-hour drive after arrest without access to legal counsel is potentially a violation of the Canadian Charter of Rights and Freedoms. When asked why they were denied these rights, an RCMP officer advised their legal counsel that it was necessary for “officer safety” because they did not know who could be waiting for them “in the bush.”

Highway 5 winds along the North Thompson River deep within a stunning green-blue valley surrounded by the majestic Kootenay Mountains. It is unclear how an ambush might have been planned, and by whom, given that the pair themselves had been surprise-attacked by police on the side of the isolated road. Police also broke protocol by refusing to allow the pair's lawyer or family to see them for hours, claiming the Clearwater station was understaffed, despite the frequent appearance of officers.

The normal procedure, once they had been booked, would have been to release Manuel and Jules on a “promise to appear” and conditions, by contacting the Crown counsel or justice of the peace. More inexplicable delays ensued here, as the RCMP waited until late that night to seek their remand in custody until Monday morning. Their bail hearing took place Monday morning.

What empowered the police to step in and violently arrest two people for “bugging” construction workers? A whole set of colonial laws could have justified this violence against two Indigenous people. There is a province-wide injunction to protect Trans Mountain pipeline infrastructure. There are property laws that claim to override centuries of Indigenous tenure. There are criminal laws applied to assertions of Indigenous jurisdiction. But none of these applied here.

Instead, the arrest seemed completely arbitrary, a kind of vigilante justice for interfering with pipeline construction. But if it were a “lawful” arrest, would that have made any difference in this case to Manuel and Jules? What is the difference between being *above the law* or an *enforcer of law* if your role is to uphold a colonial legal order, invented to justify dispossession?

The law in Canada *followed* the need to remove Indigenous peoples from their lands. The police have always played a critical role in this regard. Historically, they were invested with incredible powers that made the RCMP “virtually a separate government.”¹ Less understood is their colonial relationship to governments and corporations today.

The Largest Theft in the World

“Canada” was a British multinational company long before it was a country. Over a third of its present-day land mass was the Hudson’s Bay Company (HBC). When Canada bought the land in 1869, it established itself as the largest theft of the so-called New World.

This land of the HBC was gifted through “royal charter” from the king of England in 1670 to his cousin Rupert, thus dubbed “Rupert’s Land.” They didn’t even know the extent of the area at the time, assigning exclusive trading privileges to investors in what historians call a “parchment empire,” comprising the entire drainage basin of the Hudson Bay. Many of these same investors in the HBC also held shares in the Royal African Company, which was granted a royal charter in 1660, confirmed a few years later with a specific new provision to authorize the slave trade. Part of a global circuitry of capital financing enslavement and colonization, HBC was a fur warehouse for the British, headquartered in England while company men occupied only a tiny fraction of the lands claimed.

Rupert’s Land was governed by and belongs to the Indigenous nations that have lived there for thousands of years—like the Cree, Inuit, and Ojicree. It was never purchased, treated, or negotiated with

any these Indigenous nations. Sharon Venne, a nehiyaw (Cree) scholar of treaty rights, describes the original land grant as “tantamount to Pepsi Cola or another such company gaining title to the lands of another country merely by engaging in trading.”² As far as Indigenous nations were concerned, HBC had no jurisdiction, and neither could the British Crown authorize it.

And yet—Canada bought Rupert’s Land in 1869 for 300,000 pounds.³ The Métis, based along the Red River, went to war in 1868 to protect these territories from invasion and their sovereignty from encroachment, delaying finalization of the sale. They faced the military, but soon they would face the police. When the sale finally went through, the land base of Canada had tripled in theft.

Established in 1873, the North-West Mounted Police (renamed the RCMP in 1920) were essentially a paramilitary police organization necessary to enforce Indigenous land removal and exercise the control required to enable settlers to take Indian lands. The problem for the new settler colonial government was that Indigenous peoples refused to give up their lands. As Nahkawiniwak-Nēhiyawak leader Big Bear told the treaty commission in 1875 at Jack Fish Lake: “We want none of the Queen’s presents: when we set a foxtrap we scatter pieces of meat all around, but when the fox gets in the trap we knock him on the head; we want no bait . . .”⁴ But the buffalo were nearly exterminated by the US Cavalry and starvation created a desperation on the prairies that shifted the balance of power in the west. The NWMP waged war against the Cree, Blackfoot, and Métis to clear the way for settlement; they were incompetent and brutal, but the hunger of prairie nations was on their side.

As the North-West Territories became Alberta, Saskatchewan, Manitoba, and the northern borders of Ontario and Quebec, Canadian policies and legislation to control Indigenous peoples became increasingly extreme and diverse. The pass system was introduced as an informal extra-legal policy to require First Nations on the prairies to obtain permission in the forms of passes to leave their reserves. Child abduction and re-education programs became mandatory

at residential schools under the Indian Act. Land policies became increasingly predatory, chipping away at the land base recognized as Indigenous territories in the oral treaties made between Canada and First Nations. The NWMP were given magisterial powers, as were the Indian agents: they were police, judges, and juries. Across the country, cops and Indian agents were intertwined.

The treaties in the west made way for railroads, telegraph lines, roads, bridges, hydroelectricity, oil and gas, mineral extraction, industrialization, and agribusiness. Companies provided jobs for settlers, revenue for governments, raw materials for global markets. Lines blurred and debates erupted about the role of government in private enterprise.

But this has always been a hand-in-glove system. First, HBC colonized the country. Then colonization companies and the Canadian Pacific Railway were gifted millions of acres of discounted land to sell to homesteaders. Today, lands are leased, sold, licensed, and permitted out by provincial governments to private companies. And Crown corporations like the Trans Mountain pipeline—bought by Canada from Kinder Morgan in 2018—directly transform Indigenous lands into resource assets.

Canada was built to colonize, and this shaped the liberal capitalist institutions of this country. Therefore, the police enact a highly racialized and territorialized dynamic of terrorizing Indigenous peoples. Not just on the side of isolated highways over pipelines, but on city streets and small towns where Indigenous peoples are deemed not to “belong” because their existence and survival challenges the ideology of conquest, removal, and dispossession.

Canada and Corporations Today

A new motif was added to the symbols of Canada in February 2020: the burning injunction. As the RCMP invaded Wet’suwet’en lands to clear a path for a natural gas pipeline company, dozens of solidarity blockades sprang up across the country. To police this protest,

provinces and companies went to court—sometimes even just phoning judges in a panic—and obtained injunctions to remove people from railway lines, transit hubs, highways, and ports.

The injunction is a legal tool to remove someone from somewhere. It's a temporary emergency measure where the underlying legal issues are meant to later stand trial. But as an urgent action filed in court, very little evidence is needed to obtain this "interlocutory" remedy if the case for the cost of disruption is compelling to the judge. The three legal tests the judge must consider to grant an injunction are that the case must be serious, it must tip the balance of inconvenience toward the party seeking the injunction, and it must involve a matter of irreparable harm.

Almost 100 percent of injunctions filed against First Nations by corporations and governments involve resource extraction or development. In the case of corporations, they have an over 80 percent success rate at successfully obtaining them; for provinces the rate is closer to 90 percent.⁵ Each case is different, but there are trends and prevailing logics that explain this phenomenon.

The case for economic loss often seems much higher for corporations and governments because they use quantifiable financial metrics to report loss (though these figures are rarely fact-checked); the case for loss of livelihood, culture, lands, and knowledge for Indigenous peoples does not seem to register for these judges in the same way. Or judges claim they cannot adjudicate on claims of harm to Aboriginal Rights, which must be heard at higher courts.

But these successes for corporations and governments are less important if the injunctions are set on fire. Coming back to the Wet'suwet'en solidarity rallies, on Tyendinaga Mohawk territory, the injunction served against an occupation near the CN rail line was burned upon presentation. At a solidarity rail blockade in Vaughan, Ontario, the injunction was also burned upon arrival. A few days later, Hamilton blockaders burned the injunction served them too.

The trend continued a few months later in May 2020, when the chief of Tataskweyak First Nation in Manitoba ripped up and burned

the injunction served to remove their blockade against the Keeyask hydro project labour force, to stop workers from travelling into their community at the height of COVID-19 spread. Images circulated on social media of a hot dog roasted on its flames.

Though I'm not sure if the Trans Mountain injunction was ever burned, it was certainly ignored. At the Tiny House Warriors Blue River camp, the word "Skoden" were spray-painted in red onto the posted injunction, which was nailed into the ground like a traffic sign. Kinder Morgan obtained an injunction on March 15, 2018, for a five-metre exclusion zone around Burnaby Mountain tank farm and Westridge Marine Terminal. It was expanded that June to include any worksite in British Columbia, and any interference with the company's contractors and subcontractors throughout the province. Lawyers critical of the move called it "carte blanche" for the company.

A few days later, Canada announced that it bought the pipeline. The injunction stayed in place. From the perspective of police, there was no difference between Kinder Morgan or Canada owning the pipeline. They played exactly the same role, despite the fact that, unlike corporations, governments have treaty obligations and are signatories to international human rights protocols. Police, in other words, work to protect the project. And the project—approved by governments, carried out by companies or Crown corporations—is what matters most to both.

Beyond Injunctions

This chapter has examined how police as an institution protect a system of *corporate sovereignty* in Canada. As Joshua Barkan describes it, "corporate sovereignty" is the way a government expands its power through corporations.⁶ From the earliest days of contact, the Hudson's Bay Company settled territory for England. The company was empowered to make laws and to enforce them; it preceded the state, shaped its institutions, and created its economic base. As Canada formed, police became the lynchpin in this system that tied the power of

private companies to a public government. Today, the police continue to play this role, as mercenaries for a bad company.

The alleged mischief Manuel and Jules caused that led to the suspension of their rights was to tell construction workers to leave the site. They warned the workers that their actions were illegal because Canada had no consent from the Secwepemc Nation to build the Trans Mountain pipeline expansion.

The Trans Mountain pipeline expansion crosses through 518 kilometres of Secwepemc land. While some bands signed rights-of-way and other agreements with Kinder Morgan (contracts that transferred to Canada when it bought the pipeline in 2018), the Neskonlith Indian Band that Manuel and Jules belong to has not consented. Nor has Canada been granted the approval by the title-holders—the Secwepemc Nation as a whole—who are the legal decision-making authority on the territory according to both the Supreme Court of Canada and Secwepemc law.

Therefore, legal uncertainty pervades the project. But law does not seem to be the prevailing logic of policing here. We are a project-driven country. It is a violent corporatism, facilitated by a violent colonization.