

# RED INK

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# THE DAKOTA ACCESS PIPELINE, ENVIRONMENTAL INJUSTICE, AND U.S. COLONIALISM

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KYLE POWYS WHYTE

“The Dakota Access Pipeline, Environmental Injustice, and U.S. Colonialism”<sup>1</sup>

*“We must remember we are part of a larger story. We are still here. We are still fighting for our lives, 153 years after my great-great-grandmother Mary watched as our people were senselessly murdered. We should not have to fight so hard to survive in our own lands.”<sup>2</sup>*

—LaDonna Brave Bull Allard, Standing Rock Sioux Tribe

## “Standing Side by Side in Peaceful Prayer”

Starting in April 2016, thousands of people, led by Standing Rock Sioux Tribal members, gathered at camps near the crossing the Dakota Access Pipeline (DAPL) there—creating the #NoDAPL

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<sup>1</sup>Portions of this essay originally appear in the author’s article “Why the Native American Pipeline Resistance in North Dakota is about Climate Justice,” which was published online, under Creative Commons, at TheConversation.com on 16 September 2016. Any edits to that original publication have been made by the author or with his permission.

<sup>2</sup>LaDonna Brave Bull Allard, “Why the Founder of Standing Rock Sioux Camp Can’t Forget the White-stone Massacre,” Yesmagazine.org, 3 September 2016.

movement. DAPL is a 1,172-mile pipeline for transporting crude oil from North Dakota to refineries and terminals in Illinois. As a business venture, DAPL's investors seek to profit by offering a cheaper transportation alternative to rail. DAPL's advocates claim the pipeline will meet the highest environmental safety standards. They also claim the venture will produce greater U.S. energy independence and jobs at the same time it lessens the environmental risks of oil trains,<sup>3</sup> though it is opaque how the new pipeline could increase oil production, oil consumption, employment, and state tax revenues.<sup>4</sup>

The #NoDAPL movement sees the pipeline as posing risks to the water quality and cultural heritage of the Dakota and Lakota peoples of the Standing Rock Sioux Tribe. Part of DAPL's construction is occurring on lands and through waters the tribe never ceded consensually to the U.S. and that remain environmentally and culturally significant for tribal members' safety and wellness. The construction has already destroyed culturally significant places, including ancestral burial sites.<sup>5</sup> In September 2016, U.S. District Judge Boasberg opined against the tribe's request for a preliminary injunction against construction. His opinion states that the permitting agency for that segment of DAPL, The Army Corps of Engineers (ACE), in its coordination with the builder, Energy Transfer Partners (ETP), adequately consulted the tribe about any risks to cultural heritage.<sup>6</sup>

However, a review of the information in the judge's opinion and knowledge of how U.S. and corporate consultation processes work reveals another perspective: ACE and ETP did not allow sufficient time, resources, or attention to evaluating the environmental or cultural risks. They relied on assessment processes, modes of communication, and external consultants that—taken together—are known to lack sensitivity and accountability to Indigenous peoples' concerns, rights, and capacities to participate on genuinely equal footing with powerful private and government parties.<sup>7</sup>

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<sup>3</sup> "Dakota Access Pipeline," [dapipelinefacts.com](http://dapipelinefacts.com), 2015; Scott Montgomery, "Victory at Standing Rock Reflects a Failure of U.S. Energy and Climate Policy," [TheConversation.com](http://TheConversation.com), 5 December 2016.

<sup>4</sup> Jonathan Thompson, "The Twisted Economics of the Dakota Access Pipeline," *High Country News*, 29 November 2016.

<sup>5</sup> Standing Rock Sioux Tribe, "Standing Rock Sioux Tribe Condemns Destruction and Desecration of Burial Grounds by Energy Transfer Partners," *Indian Country Today Media Network*, 4 September 2016; Chip Colwell, "How the Archaeological Review behind the Dakota Access Pipeline Went Wrong," [TheConversation.com](http://TheConversation.com), 20 November 2016.

<sup>6</sup> James Boasberg, United States District Judge, Civil Action No. 16-1534 (JEB), *Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*.

<sup>7</sup> Colwell.

The Tribe's DAPL ordeal started before 2016, of course. In 2012, the Tribe made a resolution against future pipelines in relation to the movement to block the Keystone XL pipeline;<sup>8</sup> since 2014, the Tribe has rejected DAPL in a meeting with ETP and expressed numerous concerns and objections to ACE.<sup>8</sup> After the judge's September opinion, ACE temporarily halted construction and, in November, stated that "additional discussion and analysis are warranted in light of the history of the Great Sioux Nation's disposessions of lands, the importance of Lake Oahe to the Tribe, our government-to-government relationship, and the statute governing easements through government property."<sup>10</sup> In December, ACE denied the easement for ETP to complete DAPL. ACE's decision by no means ends DAPL, as ACE reversed this decision under the Trump Administration in early 2017, permitting DAPL's completion.

While appearing as direct action or a standoff, many Indigenous persons whose work created the #NoDAPL movement say it is really ceremony, prayer, and water protection. The meanings of English-language expressions, such as "ceremony" and "water is life," arise from time-tested Indigenous knowledges that prescribe respectful moral relations with water and other nonhuman beings and entities as vital for securing human safety and wellness. Robin Kimmerer and Kathleen Dean Moore describe #NoDAPL as "a story that is so ancient it seems revolutionary."<sup>11</sup> Protectors know the "[t]he land is sacred, a living breathing entity, for whom we must care, as she cares for us. And so it is possible to love land and water so fiercely you will live in a tent in a North Dakota winter to protect them."<sup>12</sup>

At the camps, the protectors endured violence at the hands of law enforcement and DAPL's private security, including being pepper sprayed, shot with rubber bullets, attacked by dogs, denied nourishment and supplies, threatened by lawsuits, and drenched with cold water during the onset of winter temperatures.<sup>13</sup> Many protectors have sacrificed their personal obligations, raising money

<sup>8</sup> Talli Nauman, "Sioux Nation Takes Stand on Keystone XL," *Native Sun News*, 24 February 2012

<sup>9</sup> Amy Dalrymple, "Audio: Tribe Objected to Pipeline Nearly 2 Years before Lawsuit," *Bismarck Tribune*, 30 November 2016; see also Boasberg, for details on instances when the Tribe expressed objections to DAPL.

<sup>10</sup> U.S. Army Corps of Engineers, "Statement Regarding the Dakota Access Pipeline," [usace.army.mil](http://usace.army.mil), 14 November 2016.

<sup>11</sup> Robin Wall Kimmerer and Kathleen Dean Moore, "The White Horse and the Humvees—Standing Rock is Offering us a Choice," *Yes! Magazine*, 5 November 2016.

<sup>12</sup> *Ibid.*

<sup>13</sup> "Dakota Access Pipeline Company Attacks Native American Protestors with Dogs and Pepper

to support their and others' participation.<sup>14</sup> Moreover, protectors withstood the frustration that the #NoDAPL movement inevitably attracted some disingenuous allies who did not respect Indigenous knowledges, cultural protocols, and the wisdom of Tribal elders.<sup>15</sup>

Away from the camps, many people advance #NoDAPL. Indigenous and allied academics created the free online Standing Rock Syllabus for educators.<sup>16</sup> The American Friends Service Committee's report, *We are Our Own Medicine*, demands U.S. interventions regarding violence against protectors and the defective consultation process.<sup>17</sup> The United Nations Special Rapporteur on the Rights of Indigenous Peoples, Victoria Tauli-Corpuz, calls for the U.S. to halt construction and to honor the Tribe's right to free, prior, and informed consent.<sup>18</sup>

Many more solidarity-building actions have been taken by diverse people everywhere. According to Tribal Chair David Archambault II, "Thousands of people—from members of the Standing Rock Sioux Tribe, tribes across the nation and First Nations in Canada, to non-Native supporters in the United States and around the world—have stood in solidarity against the harm and destruction caused by the Dakota Access Pipeline; we have stood side by side in peaceful prayer."<sup>19</sup>

### **The Injustice of DAPL**

As a Potawatomi scholar-activist, I am concerned with how critics of #NoDAPL often focus on defending the pipeline's safety precautions or the many attempts ACE made at consultation. Many such critics even claim that it is tragic how U.S. and corporate rela-

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Spray," *Democracy Now*, 4 September 2016; Derek Hawkins, "Police Defend Use of Water Cannons on Dakota Access Protesters in Freezing Weather," *Washington Post*, 21 November 2016; Eyder Peralta, "Dakota Access Pipeline Protests in North Dakota Turn Violent," *NPR*, 4 September 2016; Mike Nowatzki, "State Pulls Relief Resources from Swelling Dakota Access Pipeline Protest Camp," *Bismarck Tribune*, 22 August 2016; Max Blau, Kalt Richmond, and Marisa Russell, "North Dakota Pipeline: Protesters Vow to Stand Ground," *CNN*, 30 November 2016; James MacPherson, "Dakota Access Pipeline Owners Sue North Dakota Protesters," [Minneapolis] *Star Tribune* 16 August 2016.

<sup>14</sup> Joe Whittle, "'We Opened Eyes': At Standing Rock, My Fellow Native Americans Make History," *The Guardian*, 30 November 2016.

<sup>15</sup> Valerie Richardson, "Complaints Grow over Whites Turning Dakota Access Protest into Hippie Festival," *Washington Times*, 28 November 2016.

<sup>16</sup> NYC Stands for Standing Rock Collective, "#StandingRockSyllabus," 2016, can be found online at <https://nycstandswithstandingrock.files.wordpress.com/2016/10/standingrocksyllabus7.pdf>

<sup>17</sup> Sharon Goens Bradley et al., *We Are Our Own Medicine*, American Friends Service Committee, 2016, can be found online at [https://www.afsc.org/sites/afsc.civicactions.net/files/documents/We%20Are%20Our%20Own%20Medicine\\_1.pdf](https://www.afsc.org/sites/afsc.civicactions.net/files/documents/We%20Are%20Our%20Own%20Medicine_1.pdf)

<sup>18</sup> "United Nation Experts Validate Standing Rock Sioux Opposition to Dakota Access Pipeline," *Indigenous Environmental Network*, 23 September 2016.

<sup>19</sup> Bradley, et al, *We Are Our Own Medicine*, 2.

tions with the tribe broke down given all the precautions and accommodations made by ETP and ACE.<sup>20</sup> Yet critics rarely engage what LaDonna Brave Bull Allard, in the epigraph to this essay, calls “the larger story.” To me, as an Indigenous supporter of #NoDAPL, the larger story concerns how DAPL is an injustice against the tribe. The type of injustice is one that many other Indigenous peoples can identify with—U.S. settler colonialism.

I write this essay from my own perspective to show at least some of the relevant reasons why DAPL is an injustice of a certain settler colonial type. I am against the view that the tribe’s ordeal with DAPL is merely about a breakdown in consultative relations or an isolated disagreement over safety. I seek to show how there are many layers to the settler colonial injustice behind DAPL that will take me, by the end of this essay, from U.S. disrespect of treaty promises in the 19th century to environmental sustainability and climate change in the 21st century. Though, before I cover all of that, I will begin with some more abstract definitions.

An injustice occurs when one or more groups of people seek to achieve their own perceived economic, cultural, and political aspirations by systematically inflicting harms and risks on one or more other groups of people. Infliction is systematic when the perpetrators gain at the expense of others under the conscious or tacit auspices that doing so is acceptable because the others are of certain skin-colors, cultures, genders, disabilities, and other social identities. Perpetrators often create and impose these social identities on people who they perceive to be instrumental to or standing in the way of the achievement of their aspirations. Racism is a type of injustice, then, as is sexism, ableism, ethnocentrism, and settler colonialism.

As an injustice, settler colonialism refers to complex social processes in which at least one society seeks to move permanently onto the terrestrial, aquatic, and aerial places lived in by one or more other societies who already derive economic vitality, cultural flourishing, and political self-determination from the relationships they have established with the plants, animals, physical entities, and ecosystems of those places. When the process of settler colonialism takes place or has already occurred in some region, the societies moving in or who have already done so can be called “settlers,” the societies

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<sup>20</sup> Patrick Springer, “ND Governor Says Pipeline Company ‘Abdicated’ Role in Defending Project,” *Grand Forks Herald*, 8 December 2016; Associated Press, “Dakota Access CEO Vows to Truck on with Oil Pipeline Despite Violent Protests,” *Fox News*, 14 September 2016; Montgomery; Boasberg.

already living there at the beginning of settlement, “Indigenous peoples.”

The settlers’ aspirations are to transform Indigenous homelands into settler homelands. Settlers create moralizing narratives about why it is (or was) necessary to destroy other peoples (e.g. military or cultural inferiority) or they take great pains to forget or cover up the inevitable violence of settlement. Settlement is deeply harmful and risk-laden for Indigenous peoples because settlers are literally seeking to erase Indigenous economies, cultures, and political organizations for the sake of establishing their own. Settler colonialism, then, is a type of injustice driven by settlers’ desire, conscious and tacit, to erase Indigenous peoples.<sup>21</sup>

The concept of settler colonialism, as I use it here, is meant to highlight one type of injustice that has occurred widely throughout the world, the U.S. being a major example. The concept helps to shed light on some key reasons why the Tribe and many Indigenous peoples everywhere are justified in opposing DAPL. I am not using the concept here in some attempt to accurately represent or stereotype the motivations and histories of every non-Indigenous arrivant or immigrant to North America as nothing but “settler,” or to suggest that all oppression in the U.S. context boils down to some struggle between settler and Indigenous populations, though a strong case can be made that, in the U.S. context, it is more than just “white” people who are perpetrators, in different ways, of settler colonial injustice. I also do not use the concept to suggest that colonialism is exclusive from or more fundamental than other injustices, such as global imperialism, capitalism, racism, or patriarchy. An analysis more detailed than what I offer here would certainly attempt to intertwine them all where appropriate.

U.S. settler colonialism emerges in the experiences of Indigenous peoples as a recent, highly disruptive type of injustice amid an exponentially longer history our peoples have in North America. Indeed, Indigenous peoples everywhere in North America have longstanding traditions of comprehensive governance systems designed to relate to places with particular ecological conditions for the sake of ensuring cultural integrity, economic vitality, and political self-determination for current and future generations. In my own work, I

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<sup>21</sup> A reference featuring diverse scholarship on settler colonialism, including from Indigenous Studies and by Indigenous scholars, is Tate Lefevre, “Settler Colonialism,” in *Oxford Bibliographies in Anthropology* (Oxford: Oxford U. Press, 2015).

look at how Indigenous governance systems operate quite differently than, say, those of the U.S. federal government, in operations ranging from the selection processes for leadership to the construction of gender and gender fluidity to environmental ethics.

Indeed, the ceremonies at the #NoDAPL camps; expressions such as “water is life,”: the sacredness of the Black Hills; the leadership of women; and the many other moral claims about plants, animals, and ecosystems that protectors are making arise from the time-tested knowledges of Dakota and Lakota governance systems that preexist U.S. settlement. From what I have learned through personal experiences with friends and colleagues and the writings of protectors cited earlier, Dakota and Lakota governance systems were organized to operate flexibly throughout the year to ensure they were attuned to the dynamics of local ecosystems, especially seasonality. Lakota and Dakota peoples developed complex spiritual relationships to the places they still inhabit or live nearby that furnish highly practical knowledge of how to steward bison or grasslands or keep water clean. They developed ceremonies, such as giveaways, that reaffirm norms in which sharing, not hoarding, are incentivized, which some Indigenous Studies scholars have shown to be integral to environmental sustainability.<sup>22</sup> Dakota and Lakota peoples’ origin and other stories connect them intimately to places, such as the Black Hills or place of sacred stones, in ways that are intrinsically valuable to their cultural flourishing and spiritual health. The water protectors’ morality flows, then, from Indigenous governance systems that support cultural integrity, economic vitality, and political self-determination and the capacity to shift and adjust to the dynamics of ecosystems.

In the 19th century, U.S. settlers sought to move to the places in which Dakota and Lakota peoples already had complex cultural, economic, and political relationships. U.S. settlers had diverse motivations, such as fur trading, gold mining, farming, and establishing settlements beyond the so-called frontier. While peoples have to adapt to different changes in different historic periods, such as the Indigenous adoption of the horse in North America, U.S. settler colonialism viciously imposed harms and risks on the ancestors of the Standing Rock Sioux Tribe that continue on through the DAPL

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<sup>22</sup> For example, Ronald L. Trosper, “Northwest Coast Indigenous Institutions that Supported Resilience and Sustainability,” *Ecological Economics* 41.2 (2002), 329-344; Nick Estes, “Lakota Giving and Justice,” *Old Wars*, 16 November 2015.

ordeal.

It is precisely this social process of settler colonialism that explains why it is no accident that ETP sought to build a key segment DAPL through tribally significant land and water. Many public resources document this history of settler colonialism, including the tribe's website, the Standing Rock Syllabus, the North Dakota Studies portal, and conventional academic research.<sup>23</sup> In what follows, I briefly describe some of that history of settler colonialism in order to express my limited version of the "larger story" of the #NoDAPL movement, drawing widely from many public sources given this information is, ironically, highly accessible to anyone, but little known.

### **The Colonial Déjà Vu of Indigenous Erasure**

Dakota and Lakota peoples historically maintained peaceful and conflictive diplomatic and trade relations with many other Indigenous peoples in the plains and woodland regions of North America and beyond. A different challenge emerged in the middle of the 19th century. Enter U.S. settlers, who began overharvesting bison for furs to ship to distant markets without concern for the relationship between bison and bison habitat to Dakota and Lakota peoples. When gold was discovered in California in the late 1840s, many more settlers arrived. In 1851, the U.S. negotiated the first Treaty of Ft. Laramie with a limited set of Sioux leaders to define territories where each particular tribal group ranged according to their own governance systems, which amounted to about 134 million acres in what are now the states of North Dakota, South Dakota, Montana, Wyoming, and Nebraska.

However, the U.S. refused to engage in a treaty-making process that would allow Indigenous leaders to gain consensus among themselves according to the protocols of their Indigenous governance systems. Settlers ended up violating the treaty repeatedly by entering the territory and many tribal groups did not ultimately respect its non-consensus status. Due to further settler immigration, military intervention, the construction of railroads, wagon roads, and mail stations, and desires to explore for gold, the U.S. negotiated the 1868 Treaty of Ft. Laramie. This treaty reduced the Indigenous land base to 25 million acres contained within what is now the state of South Dakota, forming the Great Sioux Reservation.

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<sup>23</sup> Nick Estes' "Fighting for Our Lives: #NoDAPL in Historical Context," Red Nation, 9 September 2016, provides a comprehensive account.

Despite the 1851 and 1868 treaties, settlers continued to enter Sioux lands illegally, disrupting Dakota and Lakota peoples. Analogous to the armed guards for DAPL builders who engage in constant surveillance of the protectors, the U.S. military set up strategic positions, such as forts, to ensure settlers could pursue their business ventures without encountering resistance. Again, instead of honoring the original treaty agreements, the U.S. forced the ancestors of the present-day Standing Rock Sioux Tribe to sever more of their relationships to the places that mattered to their cultures, economies, and political self-determination. The U.S. instantiated the 1877 Starve or Sell Bill, in which it self-authorized access to the Black Hills for gold mining

With the passage of the Sioux Bill in 1889, the U.S., wanting control over additional Indigenous places, liquidated the Great Sioux Reservation into six smaller reservations, the Standing Rock one being about 2 million acres. The lack of Indigenous consent to these actions led the U.S. Supreme Court in 1980 to claim that “[a] more ripe and rank case of dishonorable dealings will never, in all probability, be found in our history.”<sup>24</sup> The Sioux Bill, as the local instantiation of the Dawes Allotment Act (1887), further broke up the Standing Rock reservation into private property (often 160 acre parcels) for tribal members, an effort intended to force Indigenous peoples to adopt farming lifestyles that would pose less resistance to settlement. Settlers took the rest of the parcels—usually the most arable lands.

The U.S. eventually made it impossible for immediate or extended family groups to manage allotments cooperatively. Tribal members could not sell their allotments for 25 years unless they were deemed “competent” by the U.S. The U.S. developed many schemes to divest Indigenous persons of their allotments before 25 years. Indigenous persons, who typically had to farm arid land and received inadequate support from the U.S. to transition into farming, were often considered so incompetent that the U.S. leased their land to settlers.

The U.S. required Indigenous allotments to be divided equally among the heirs, creating land with owners too numerous to make use of the land. As a result, the land was often leased to settlers. The U.S. agents exercised tax codes corruptly, making it so that Indige

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<sup>24</sup> United States v. Sioux Nation of Indians, 448 U.S. 371 (1980).

nous persons “declared competent” owed more in taxes than they could afford to pay. The large region of diverse and dynamic ecosystems from which Dakota and Lakota governance systems arose had been reduced in size exponentially; its ecological conditions were transformed due to mining, farming, grazing, and settler infrastructure.

Well into the 20th century, the U.S., via its government or supported by churches, sent many Dakota and Lakota children to boarding schools, some as far away as Virginia and Pennsylvania. The schools divested students of their language, cultures, and knowledges, replacing them with technical skills for settler occupations. The children were sometimes physically abused or even murdered. Back in their homelands, the U.S. made Dakota and Lakota cultures “illegal” in 1883, including a ban on giveaways and many other ceremonies that were vital for reaffirming land- and water-based ethics and knowledges of Indigenous governance systems. During this entire narrative, the U.S. military frequently attacked Indigenous communities that continued to live according to their own governance systems, including the massacre of Whitestone Hill (1863) referenced in the epigraph.<sup>25</sup>

Because of the economic pressures of the 1930s, which were felt nationally but were more severe within tribes as a result of land dispossession from allotment, the U.S. sought to create new laws and programs on reservations. The U.S. Bureau of Indian Affairs (BIA), however, exercised control over economic development programs, such as community ranching or other land leasing, which often meant tribal members got less money than they deserved through actions like the BIA underselling to settler buyers.

The U.S. also created incentives for loan programs for tribes to consolidate lands and promote economic development, yet to access the money, tribes had to yield aspects of their political self-determination by organizing their governments according to U.S. standards for corporate charters and elected Tribal councils under the Indian Reorganization Act (1934). The BIA held authority over the decisions of these councils, putting tribes in the dilemma of choosing between certain immediate economic incentives and maintaining political self-determination. The Standing Rock Tribe initially rejected the act. In the late 1940s, ACE created a major dam as part of the Pick-Sloan Missouri River Basin Program seeking to improve irrigation and

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<sup>25</sup> Allard.

other forms of water control to improve settlers' business ventures and living conditions. While many settlers benefited from the Lake Oahe Dam, its reservoir shrunk the tribe's land base, displacing many tribal members and destroying quality timberlands and soils for cultivation and wildlife habitats. From the beginning, Standing Rock leaders were adamantly against the construction of the dam.

As would any community facing these conditions for over a hundred years, the people living on the tribe's reservation today endure high unemployment and heightened health risks that historically were not problems of comparable severity for their ancestors. U.S. settlement sought to erase Dakota and Lakota peoples to make way for the business ventures and other aspirations of settlers.<sup>26</sup> They erased political self-determination through disrespecting treaties and pressuring the adoption of BIA controlled constitutions, erased economic vitality through transforming ecosystems and dividing Indigenous lands, and erased cultural integrity through stripping Indigenous peoples of their languages and ceremonies. Today, many settler Americans in North Dakota and South Dakota actually believe moralizing narratives that Dakota and Lakota peoples are pathologically dependent on the U.S. for bare survival.<sup>27</sup> Public education in those states does not attend equally to Indigenous and settler histories, being complicit in covering up the violence of settlement. Acts of anti-Indigenous discrimination occur daily against many persons.<sup>28</sup>

Now imagine what it felt like for tribal members most immediately, but also Indigenous peoples everywhere, when it became known that DAPL, a settler business venture, was re-routed from a location farther away from the Tribe because of threats to the water quality of the settler city of Bismarck, North Dakota. And that law enforcement was willing to step in to block protectors from expressing themselves through prayer, ceremony, and thanksgiving. Colonial déjà vu!

## **Environmental Injustice or the Ecology of U.S. Settler Colonial Erasure**

<sup>26</sup> Standing Rock Sioux Tribe, "Statistics," StandingRock.org, nd; North Dakota Department of Health, "North Dakota American Indian Health Profile," online at <https://www.ndhealth.gov/HealthData/CommunityHealthProfiles/American%20Indian%20Community%20Profile.pdf>

<sup>27</sup> Jenni Monet, "Climate Justice Meets Racism: This Moment at Standing Rock Was Decades in the Making," Yesmagazine.org, 16 September 2016.

<sup>28</sup> Ibid.

The women of the Brave Heart Society, White Buffalo Calf Woman Society, and Stone Boy Society describe DAPL as literally contributing to the physical erasure of Indigenous peoples—an ultimate outcome they will not allow!<sup>29</sup> Again, settler colonialism refers to complex social processes in which at least one society seeks to move permanently onto the terrestrial, aquatic, and aerial places lived in by one or more other societies who already derive economic vitality, cultural flourishing, and political self-determination from the relationships they have established with the plants, animals, physical entities, and ecosystems of those places. Settler colonialism is an “environmental” injustice. For the U.S. settlement process aims directly at undermining the ecological conditions required for Indigenous peoples to exercise their cultures, economies, and political self-determination. Ecological conditions refer to the complex relationships to place that are the substance of Indigenous governance systems.<sup>30</sup>

Settler colonial tactics, expressed through their treaty-making or allotment policies, and settler colonial technologies, from dams to mines to farming implements, literally change hydrological flows, soil nutrients, and many other ecological conditions. Changes in ecological conditions change how settlers perceive terrestrial, aquatic, and aerial places, which aid settlers’ moralizing narratives and forgetfulness. Settlers perceive ecosystems, for example, simply as open lands and waters belonging to them to route a pipeline as long as it is safe or the tribe is consulted according to settler laws. They do not perceive ecosystems that continue to participate in relationships with Indigenous peoples that honor Indigenous histories and stewardship responsibilities—that ultimately support Indigenous cultural integrity, economic vitality, and political self-determination.

If we unravel the settler colonial layers of DAPL even further, a more ecologically insidious dimension of U.S. settler colonial environmental injustice becomes apparent. For numerous reasons—including settlers’ lack of long-term knowledge of the environments they inhabit even years after settlement—they have transformed the ecological conditions in ways that are not sustainable for settlers,

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<sup>29</sup> Women of the Brave Heart, White Buffalo Calf Woman, and Stony Boy Societies, “Lakota Women Call on President Obama to Stop Violence by Dakota Access Pipeline,” San Francisco Bay View, 12 September 2016.

<sup>30</sup> Indigenous Studies offer a range of important accounts on what I call the ecology of settler colonialism, see, for example, Eve Tuck and K. Wayne Yang, “Decolonization is not a Metaphor,” *Decolonization: Indigeneity, Education & Society* 1.1, 1-40.

Indigenous peoples, or anyone else. They have created ecological conditions that are key factors of crises relating to dangerous climate change, excessive pollution, and decline of certain ecological processes and services (e.g. pollination, vegetation barriers, shade, etc.). In the U.S. context, the very agricultural, military, transportation, and extractive industries that were facilitated by broken treaty agreements, allotment, and boarding schools, are the ones polluting and overusing lands and waters. They are also industries that climate scientists have shown play roles in contributing to increasing concentrations of greenhouse gas emissions in the atmosphere, a major cause of dangerous climate change.<sup>31</sup>

The destabilization of the climate system, or human-caused (anthropogenic) climate change, produces ecological conditions that disrupt human societies, through impacts such as rising sea-levels, more severe droughts, warming freshwater, and faster melting glaciers. While all humanity should be concerned about climate change, many Indigenous peoples are among the populations whose safety and wellness are most immediately in peril. Indigenous peoples are among the first climate refugees, having to decide to relocate due to sea-level rise in the Arctic and Gulf of Mexico. Warming reduces Indigenous access to culturally and economically significant plants and animals, such as moose (Great Lakes), salmon (Pacific Northwest), and many berries and traditional crops such as *Timpsila* (Great Plains).<sup>32</sup>

Thinking in geographic and cultural proximity to Standing Rock, the Oglala Lakota Nation's climate change program is concerned about drought in the region, leading to water scarcity, as well as stresses on Tribal agriculture, ranching, and wildlife habitats. More severe storms may affect crop timing and forage production; extremely hot weather may create risks for elders or community members who practice seasonal ceremonies during hot months. Some plants, including ones used ceremonially, may disappear in certain areas.<sup>33</sup>

Moreover, we find that disproportionate Indigenous suffering is produced both by changing environmental conditions—and once

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<sup>31</sup> The website of the Intergovernmental Panel on Climate Change can be found online at <https://www.ipcc.ch/>.

<sup>32</sup> Institute for Tribal Environmental Professionals, "Tribal Profiles," can be found online at <http://www7.nau.edu/itep/main/tcc/Tribes/>; Kathryn Norton-Smith et al., "Climate Change and Indigenous Peoples: A Synthesis of Current Impacts and Experiences," Tech. Rep. PNW-GTR-944 (Portland: U.S. Department of Agriculture, 2009), can be found online at [http://www.fs.fed.us/pnw/pubs/pnw\\_gtr944.pdf](http://www.fs.fed.us/pnw/pubs/pnw_gtr944.pdf).

again—the machinations of U.S. settler colonialism. Most relocating tribes, for example, are vulnerable precisely because they were forced to live permanently on tiny areas of land with limited adaptive options. The Isle de Jean Charles Band of Biloxi-Chitimacha-Choctaw Indians in the Gulf of Mexico were displaced by European settlers from their homelands to a small island that over time has shrunk from 5 miles by 12 miles to 1/4 mile by 2 miles, and faces continuing stresses from coastal erosion and saltwater intrusion associated with climate change.<sup>34</sup> Of course, the shrinking occurred initially before climate change due to U.S. settler oil and gas companies dredging canals and cutting pipelines, public water control infrastructure and flood control measures, and industrial agriculture development. The U.S. continues to complicate the relocation process by failing to recognize the Band as a sovereign self-determining people, cutting the Band out of both resources and opportunities to take leadership in decisions about its own response to its shrinking island and climate change.<sup>35</sup>

Tribes' losses of cultural and economic relations to species such as moose or salmon occur largely because their reservations are too small or fragmented to allow Indigenous communities to follow the species' movements, the species habitats moves into another nation such as Canada, or the U.S. fails to honor treaties that are supposed to guarantee continued Tribal access to the species despite changing ecological conditions. The Oglala Lakota Nation, in its description of its climate change program, references land dispossession and jurisdictional limits as the reason why north-moving wildlife ranges and changes in berry and crop habitats will be problematic for them, as well as their having less resources to use for adaptation planning due to the legacies of U.S. settler colonialism.<sup>36</sup> For the Standing Rock Sioux Tribe, as climate change becomes more apparent in their homelands, shifting plant and animal habitats tied to agriculture, wildlife, and ceremonial species, it will be the loss of territory and resources due to U.S. settler colonialism that will make it harder to adjust.

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<sup>33</sup> Institute for Tribal Environmental Professionals, "Prairies Region, Oglala Lakota Nation," can be found online at [http://www7.nau.edu/itep/main/tcc/Tribes/plns\\_ogla](http://www7.nau.edu/itep/main/tcc/Tribes/plns_ogla).

<sup>34</sup> Julie Koppel Maldonado, "The Impact of Climate Change on Tribal Communities in the US: Displacement, Relocation, and Human Rights," *Climate Change* 120.3 (2013), 601-614.

<sup>35</sup> *Ibid.*

<sup>36</sup> Oglala Lakota Nation, "Oyate Omniciyé: Oglala Lakota Plan," 2011, can be found online at [http://www7.nau.edu/itep/main/tcc/docs/tribes/tribes\\_OglalaLakota.pdf](http://www7.nau.edu/itep/main/tcc/docs/tribes/tribes_OglalaLakota.pdf)

Climate change also opens up more Indigenous territories, such as in the Arctic, to pressure from colonial exploitation, as thawing snow and ice create access to resources, such as oil and other hydrocarbons, that were previously hard to access. This further oil exploration will likely lead to the same detrimental effects we have already seen with past extractive industries. The workers camps, or “man camps,” created to support drilling and mining in regions like the Bakken, intensify sexual and gender violence through increases in the trafficking of Indigenous women and girls.<sup>37</sup> Some of the sites of violence are the very same North Dakota fields that seek to send oil down the DAPL.

Today, maps of the oil and gas pipelines attest to the sheer ecological disruption of U.S. settler colonialism.<sup>38</sup> Even the abandoned coal mines still leak carbon into the atmosphere.<sup>39</sup> Many of the “solutions” to human-caused climate change will affect Indigenous peoples adversely, as we see globally with the reemergence of hydropower in Asia as a clean energy solution and forest conservation programs in Africa—both of which often displace Indigenous peoples in those regions.<sup>40</sup> Dam development was one of the phases of settler colonial injustice against the Standing Rock Sioux Tribe through the Lake Oahe Dam. So I return full circle to where I started in this essay with the #NoDAPL movement.

### **Taking Up the Larger Story**

Settler colonial injustice is environmental injustice. In this expansive sense, the Tribe’s ordeal with DAPL is far from being over when we consider the larger story—a story that, depending on who tells it and how, can start in many places, such as the U.S. settler disruption of time-tested Dakota and Lakota governance systems, and continue on through global climate change and environmental sustainability. U.S. settler colonialism continues to work to erase Indigenous peoples culturally, economically, and politically. It is hard to distinguish U.S. protection of gold miners from similar protections

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<sup>37</sup> Victoria Sweet, “Extracting More Than Resources: Human Security and Arctic Indigenous Women,” *Seattle University Law Review* 37.4, 1157-1178; Sarah Deer, *The Beginning and End of Rape* (Minneapolis: U. of Minnesota Press, 2015).

<sup>38</sup> American Petroleum Institute, “Pipelines,” API.org, November 2016.

<sup>39</sup> “Abandoned Coal Mines Emit as Much CO<sub>2</sub> as a Small Power Plant,” *Yale Environment* 360, 27 June 2016.

<sup>40</sup> “Cambodia: Joint Indigenous Statement on Hydropower Dam Project,” 2014, can be found at [http://www.iwgia.org/news/search-news?news\\_id=977](http://www.iwgia.org/news/search-news?news_id=977); Betsy Beymer-Farris and TJ Basset, “The REDD Menace: Resurgent Protectionism in Tanzania’s Mangrove Forests,” *Global Environmental Change* 22, 332-341.

of DAPL workers and investors.

The #NoDAPL movement's significance extends beyond debates about the adequacy of ETP's safety standards or ACE's discharge of its consultative duties. I believe the movement, together with Indigenous movements globally, has the power to motivate people to address the myriad forms of erasure that contribute to the operations of settler colonial injustice in sectors ranging from education and philanthropy to people's everyday comportment. LaDonna Brave Bull Allard's words are, again, deeply insightful in closing: "We must remember we are part of a larger story. We are still here. We are still fighting for our lives on our own land."<sup>41</sup>

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<sup>41</sup> Allard.

# RED INK

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