

Environmental Racism and the First Nations of Canada: Terrorism at Oka

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This is a case study about environmental racism, recently emerging as a “new” issue, in the United States and in less-developed countries. Environmental racism is a form of discrimination against minority groups and countries in the Third World, practiced in and through the environment. It involves such practices as the siting of hazardous or toxic waste dumps in areas inhabited primarily by people of color, or hiring blacks or Native Americans to work in hazardous industries, or even exporting toxic waste to impoverished countries (Westra and Wenz, 1995). However, the problem acquires a new face when it affects the aboriginal people of Canada, as in their case, questions about environmental racism cannot be separated from issues of sovereignty and treaty rights, and this is clearly not the case for either urban or rural African Americans, nor is it true of American Indian people. In the United States, Indians are “regarded in law as ‘domestic dependent nations’ with some residual sovereign powers. In Canada the majority of First Nations people seek recognition under the Constitution of Canada of an inherent right to self-government” (Fifth Report of the Standing Committee on Aboriginal Affairs, House of Commons, Canada, May 1991; henceforth cited as FR).

This difference is extremely significant as it injects an additional component of violence, repression and state terrorism that is largely absent from cases affecting visible minorities in the United States, where even violence takes on quite different connotations and has no component of national self-defense (Westra, 1995a). This additional component emerges clearly as the Oka confrontation is discussed in order to show this Canadian “difference” in section 2.

Environmental racism is not a new phenomenon, but it is a new issue to some extent, as it has been targeted by the Clinton administration. Clinton signed an Executive Order on February 11, 1994, to make environmental justice for minorities a specific concern for the Environmental Protection Agency (Bullard, 1995).

1. The Mohawks at Kahnawake and Kanasatake, and the Confrontation at Oka, Québec, Summer 1990

In order to understand the events culminating in the summer of 1990, several complex issues underlying the conflict must be understood. These are (a) the position of the Mohawks and their forms of government as well

as that of the Canadian government; (b) the environmental issue and the demands of the Township of Oka; and (c) the chronology of the actual events and confrontation. All three are discussed in turn.

A. The Federal Government, the "Indian Act," and Mohawks' Governance

Mohawk communities in Canada total 39,263 persons, including Kanasatake, Kahnawake, Akwesasne, and another four. The Kanasatake community totals 1,591 persons and the Department of Indian Affairs funds their budget for education costs. Status Indians are eligible to attend both elementary and secondary schools off the reserve (FR, 1991). Nevertheless the "status of Kanasatake with respect to the land does not fit within the usual pattern of Indian reserve lands in Canada": they are Indians within the meaning of the term under the Indian Act, live on Crown lands (since 1945) reserved for their use (within the meaning of s.91 (24) of the Constitution Act of 1867), but they do not live on lands clearly having status as an Indian Act Reserve (FR, 1991).

The reason for this anomaly can be traced to the 1717 land grant by the king of France, and the "seigneurial grant at Lac des Deux Montagnes," given to the "Ecclesiasticals of the Seminary of St. Sulpice." The Sulpicians' mandate was "the purpose of protecting and instructing the indigenous people (a policy reflecting the ethnocentrism and paternalism of that time)" (FR, 1991). This led to continuous disputes between the Mohawks at Kanasatake and the Sulpicians over land sales and management. In fact the Sulpicians asked France's king for a second land grant, "to provide a greater land base for the Indians," and this, too, was granted in 1735. The Indians were told that the land would revert to the Sulpicians only in the event that the Indians would decide to leave. But the latter's "tutelage" and paternalism quickly turned to tough-minded abuse. The Indians were allowed to build houses and grow crops, but they could sell neither land nor wood nor hay without explicit permission. They could be brought to trial for cutting wood for snowshoes, house repairs, or firewood and, despite the Indians' repeated petitions to the king of France and, after his defeat by the British, to all those in power, their miserable conditions and the exploitation of their lands continued unabated. The Sulpicians explained their position by saying that, without strict controls, the "Savages" would return to their "natural laziness" (Pindera and York, 1991). A French native of the region turned Methodist missionary records many instances of inhumane cruelty and mistreatment of Indians on the part of the priests. When Amand Parent returned to establish a small Methodist church at Oka in 1872, the Sulpicians felt he taught the Indians to behave "above their station," and he too encountered ill-treatment and hostility. In 1875, the church was torn down by Crown order, because it had been erected without permission, with wood from the Seigneurie (Parent, 1887). In 1936 the Sulpicians, blatantly disregarding the original French mandate, sold much of the land to a rich Belgian, Baron Empain, who in turn resold it in 1950.

Canadian government records note the continuing disputes that at times led to confrontations in the area. In 1912, a decree of the privy council (then the highest court of appeal for Canadian cases) officially deprived the Mohawks of any rights in respect to the lands, "by virtue of aboriginal title" (*Corinthe v. Seminary of St. Sulpice*). As the seminary continued to sell off lands, the federal government attempted to put a stop to the controversies by purchasing the rest of the Sulpicians' lands, in 1945, without consulting the Mohawks. These lands, however, were interspersed with "blocks" privately owned by the municipality of Oka (Begin, Moss, and Miemczak, 1990).

The Mohawks, on the other hand, continued to advance their claims on separate, but related, legal grounds:

1. territorial sovereignty flowing from status as a sovereign nation
2. treaty rights
3. the Royal Proclamation of 1763
4. unextinguished aboriginal title under common law
5. land rights flowing from the obligations imposed on the Sulpicians in the eighteenth-century land grants by the King of France (Pindera and York, 1991)

The federal government instead believed that the issues were settled by the privy council order of 1912 and that the claims were weakened by the fact the Mohawks had not been continuously in possession of the land since time immemorial, as "land use by natives and non-natives is also recorded." These land users included some white settlers, as well as other native tribes. However, the federal department also described the Mohawks at Oka as descendants of some of these other groups who had been in possession, that is, the Iroquois, Algonquians, and Nipissings (Information Sheet, July 1990, "Mohawk Band government"). In fact the federal government attempted to purchase additional land to give the Mohawks at Kanasatake a "unified land base," from 1985 up to the time of the Oka conflict.

Additionally, the Canadian government requires certain specific forms of Indian government, in order to recognize Indians' sovereign nation status. The Mohawks at Oka have a long history of debate about their own forms of governance. They belong to the Six Nations of the Iroquois Confederacy (the other five are the Oneida, Onondaga, Cayuga, Seneca, and Tuscarora), governed by the "Great Law of Peace" (*Kayanerakowa*), or the longhouse system. But the Department of Indian Affairs (under the Indian Act) supports the Act's election system of band councils, instead. Chief Samson Gabriel wrote in 1967 that the longhouse was the only form of legitimate Mohawk governance. As Chief Gabriel put it,

We recognize no power to establish peacefully, or by the use of force or violence, a competitive political administration. Transactions of such groups in political and international affairs is very disturbing to the Six Nations "Iroquois Confederacy Chiefs." (Pindera and York, 1991)

In essence, there is a direct connection between any possible progress on land rights, native sovereignty or self-determination, and progress on the issue of Mohawk leadership or governance. The Department of Indian Affairs may permit the application of the Indian Act, "on an interim basis," until some appropriate alternative local form of government policy can be established. If the Mohawks could not agree on the forms of leadership and governance appropriate to their tribe, then the Department of Indian Affairs could refuse to consider their claims, because no local (Native) governance policy was firmly established, as required.¹

B. The Environmental Issues and the Demands of the Oka Township in 1990

The previous section details the political and ideological controversies that led to the violence at Oka. "The controversies included conflicts over divergent Native ideologies about self-government and about the historical residence of other tribes in the disputed area, which was viewed by some to invalidate any native land claim on the part of the Mohawks (Begin, Moss, and Miemczak, 1990)." Before turning to a narrative of the events of the summer of 1990, it is necessary to show the role environmental issues played in the racism and the violence of the events that followed the dispute.

The municipality of Oka "legally owns the clearing in the Pines and calls it a municipal park," but the Mohawks argue that the land is theirs, and that they never sold it or gave it away, hence they do not recognize that ownership claim. The Pines have been part of the Kanesatake territory for more than 270 years. About 100 years ago, the fine and sandy soil of the crest of the hill overlooking Oka was severely affected by deforestation and in danger of being washed away by the rains. The Mohawks, together with the Sulpician fathers, planted "tens of thousands of trees in the shifting sand." That area is now known as "the commons," at the very heart of the 800 hectares of Mohawk settlement (Begin, Moss, and Miemczak, 1990).

Thus the Mohawks' approach to dealing with the Pines was ecologically sound, and it is easy to understand their dismay at the later turn of events. They believed that the original Lake of Two Mountains seigneurie (including the parish and the town of Oka) was their property. Yet they had to watch powerlessly as housing and recreational developments, including a golf course, continued to erode what they took to be Mohawk lands, in order to benefit the rich newcomers. A small graveyard, the Pine Hill Cemetery, holds the bones of dead Mohawk at Kanesatake, the parents and grandparents of the warriors who were to fight for the Pines in 1990. It is placed between the Oka Golf Club's driveway and its parking lot.

The Mohawks have cherished the Pines since they were planted, and they organize a careful cleanup of the area every year. But in March 1989, Oka's mayor, Jean Ouellette, unveiled his plans for the expansion of the golf club. A strip of eighteen hectares of forest and swampland near the clearing in the Pines was to be bought and leased to the Oka Golf Club, in order to add nine holes to the present golf course. The mayor did not

consult the Mohawks as he believed he had the law on his side: the government had "consistently denied the Mohawk land claims for 150 years" (Pindera and York, 1991). When an angry citizen demanded to know why the township had been faced with a *fait accompli*, instead of being consulted before the fact, and why the Indians had not been consulted, Ouellette responded with a shrug and said, "You know you can't talk to the Indians" (Pindera and York, 1991). Many citizens were outraged by the mayor's attitude: 900 signed a petition opposing the project, which was perceived not to be in the interest of the general public as well as being environmentally unsound.

This is basic to the argument of this article. The Pines' soil is sandy, so erosion and shifting sands on the hillside would again become a continuing threat, if the painstakingly planted and nurtured trees were to be cut. At one time, in the nineteenth century, the sands had threatened to bury the town, and that formed the rationale for the planting of the pines themselves, to reforest the area. Moreover, there are two additional environmental problems that are not even mentioned in the literature describing the Oka incident: the Indian worldview about land and the Indians' respect for natural entities and laws; and the particularly hazardous nature of the envisioned project.

First, Native worldviews (basic to all Indian groups in North America) involve respect for nature and all the creatures with whom we share a habitat. Disrespect and wasteful use of anything on Earth are unacceptable to Indians as a people, totally aside from personal preferences or even personal or group advantage (Sagoff, 1989). This represents a basic belief, a value akin to a religious one and not to be confused with political beliefs about sovereignty or self-governance. Further, even aside from the issue of shifting sands and deforestation, or of religious and traditional beliefs, the enterprise, namely a golf course, for which deforestation was planned, is often a significant source of environmental contamination in spite of its benign green appearance (Pimentel et al., 1993). Lise Bacon, environmental minister at the time, could neither help nor intervene, because the law did not require an environmental impact study for a recreational project in the municipality. But although golf courses are much in demand when they are adjacent to better housing developments, as well as for the sport for which they are created, their perfect, manicured appearance depends heavily on fungicides, pesticides, and other chemicals that are hazardous to wildlife, ecosystems, and human health (Pimentel et al., 1992, 1991).

Hence, aside from the question of Mohawks' rights in regard to First Nations' sovereignty, the People of the Pines were correct in their opposition to the development, and so were the other objectors who protested on environmental grounds based on the value of life-support systems and the inappropriateness of siting a hazardous, chemically dependent operation near a fragile ecosystem on which the Mohawks depended (Westra, 1994a, 1994b). The Mohawks' lifestyle requires a healthy, unpolluted habitat even more conspicuously than that of other Canadians because their worldview entails particularly close ties to the land, and their traditional reliance on hunting and fishing self-sufficiency demands it. As a people, and as a

separate nation, they have the right to live according to their religious beliefs, without being second-guessed or overruled by others. Even if they were not viewed as a separate nation and a separate people, they would have the right to live according to their own convictions, just as would any other Canadians, according to the Canadian Constitution. But the respect due and normally accorded separate ethno-cultural or religious groups was not accorded to the Mohawks. Hence, they were treated in a way that did not accord them either the respect due them as free and equal citizens or the respect due to citizens of a separate sovereign nation (that is, as people who were not subject to Canadian laws on their own territories). The lack of understanding and respect led to the ongoing hostility and the racism demonstrated through the events of the summer of 1990.

In this case, the racism was and is perpetrated in and through the land; it manifested itself in the careless attempt to impose environmental degradation and ecological disintegrity, hence it can be termed appropriately a form of environmental racism, but one that showed a unique, specifically Canadian face.

C. The Chronology of the Events and the Confrontation at Oka, Summer 1990

In early March 1990 the township council pressed for proceeding with plans for the golf club expansion, against a background of vacillations from Ottawa about appropriate forms of governance. The Mohawks, although disagreeing among themselves on the part of the Mohawks, were united in their opposition to the council and the mayor of Oka. In essence, although the Mohawks had always maintained that even the blocks that had been sold off to the township were part of their territory, there was a lot of disagreement on the question of compliance with the Indian Act. The Department of Indian Affairs demanded that "traditional or band custom councils" be used to pass band resolutions and to administer funds from Ottawa, and that some sort of democratic elections be used.

The longhouse form of government was the Mohawks' traditional way, involving clan mothers whose role was "to listen to the people of their clans and counsel the Longhouse chiefs" (Pindera and York, 1991). When word spread about a possible early start to the project, a camp was set up in the clearing in the Pines to alert band members through an early warning system: this was the start of the occupation on March 10, 1990. As word spread through the Kanasatake, more and more people came to see what was happening, then decided to stay. Signs were erected near the edge of the golf course in French and English, saying, "Are you aware that this is Mohawk land?" (Pindera and York, 1991).

Although many Mohawks did not take the occupation seriously, others started to spend more time at the camp each day, as they returned from work or from school, and some initiated a night shift, armed with sticks, branches, and ax handles for protection. After Earth Day, April 22, 1990, when the Mohawks traditionally cleaned up the forest area of garbage and debris, more and more Mohawks joined the camp. They were armed,

erected the Warrior Flag, set up barricades of cement blocks a few meters back from Highway 344, and pushed a large fallen log across the northern entrance of the Pines (Pindera and York, 1991). In May, the Akwesasne War Chief, Francis Boots, made his first trip to the Pines, in response to requests from the longhouse chief's son for a patrol vehicle, a supply of two-way radios, and \$200 for gas and groceries (Pindera and York, 1991).

Although not everybody was in favor of being armed, eventually a consensus was reached for resistance. On May 7, a Mohawk representative was allowed to address the council of Oka citizens; he pleaded for peace rather than confrontation, but the mayor insisted there was no room for negotiations or discussion: the land belonged to the township. Premier Robert Bourassa and the Québec Public Security minister were approached by the mayor, who asked them to send the police to dismantle the barricades. Bourassa responded: "I don't want to send anyone to play cowboy over the question of a golf course (FR, 1991, n. 1)." The Minister of Indian Affairs, John Ciaccia, was sent to negotiate, but he was not given the power to affect significantly the outcome of the discussions, beyond initiating a dialogue.

On June 5, the municipality adopted a resolution: they proposed a moratorium on construction, but only if the barricades were lifted. The Mohawks refused, and Curtis Nelson of the longhouse met with the Hon. Tom Siddon (Federal Minister of Indian Affairs) in Parliament in Ottawa on June 21. Nelson and other Mohawk representatives intended to press their land claims, but they were informed that, at best, they could hope for some "limited jurisdiction," hence they refused to discuss the barricades, and left (FR, 1991, n. 1).

The municipality decided to seek an injunction against the Mohawks; at their meeting with the Hon. Tom Siddon on June 28, they compared the barricades to "a state of anarchy" (FR, 1991). Further, when the municipality sought the help of the Sureté de Québec on July 10, 1990, their request read, in part:

we ask you therefore to put a stop to the various criminal activities currently taking place . . . and to arrest the authors of the crimes, so that we can proceed with re-establishing the recreational use of the occupied land . . . (FR, 1991).

On July 11, the police decided to intervene and, although before that date, "the use of arms by First Nation people" was unprecedented, this time an armed conflict developed. The police had backed away from confrontation up to that time. When the police attacked and opened fire, the warriors who had been quietly joining the resistance for the past several months retaliated, and gunfire was exchanged. Corporal Marcel Lemay of the police was fatally wounded and rushed to the hospital. To this day, it is unclear who hit him, as the recovered bullet could have come either from a police gun or from a warrior's gun. Eventually an inquest decided that it had been a Mohawk gun that had killed him, but because the only evidence submitted and accepted at the inquest was that of the police themselves, the result must remain uncertain (Pindera and York, 1991).

A lawyer for the Kanasatake band in Montreal was told by the Mohawks that the police were getting ready to attack again, and he made “forty-five calls in four hours,” trying to reach someone with the power to stop the attacks. He finally reached Premier Bourassa who, when told of the police officer’s death, canceled the second raid (Pindera and York, 1991). From July 13 on, a new strategy was initiated: the police would not permit supplies, food, or medicine to enter the occupied lands, and even the Red Cross had to wait twenty-four hours before being permitted to enter. Indian women who attempted to go to the town to shop for groceries were jeered at and jostled. On one occasion the police arrived barely in time to prevent a beating by the angry crowd. The women had to leave without the food they had purchased. A Human Rights Commission official attempted to enter the roadblock to observe conditions at the camp, but he was refused, in glaring violation of the Québec Charter of Rights and Freedoms. The Indians’ survival was in fact dependent on the cooperation of other bands, who brought in food and other necessities by canoe, under the cover of night, and across the dense bush. Attempted negotiations continued to be stalled, and the Mohawks issued a revised list of demands on July 18. That list read:

Title to the lands slated for the golf club expansion and the rest of the historic Commons; the withdrawal of all police forces from all Mohawk territories, including Ganienkeh in New York State and Akwesasne, on the Quebec, Ontario and New York borders; a forty-eight hours time period in which everyone leaving Kanesatake or Kahnawake would not be subject to search or arrest; and the referral of all disputes arising from the conflict to the World Court at the Hague. (Pindera and York, 1991)

Their demands also listed three “preconditions” before further negotiation: free access to food and other provisions, free access to clan mothers and spiritual advisors, and “posting of independent international observers in Kanesatake and Kahnawake to monitor the actions of the police” (Pindera and York, 1991). Eventually talks were arranged in a Trappist monastery, La Trappe, at Oka, whose monks had been supportive of the Mohawks and had sent food and supplies for the warriors and their families. At this time the Mohawks argued for their position on sovereignty: Loran Thompson, a Mohawk representative, showed his Iroquois Confederation passport, “complete with Canadian customs stamps from occasions when (he) had crossed the Canadian/American border”; hence he had proof that Canadian officials had accepted them as a separate nation. The Mohawks also explained the major political principles that governed them. They were (and are) The Two Row Wampum Treaty (originally a treaty with the Dutch, in 1717), and the Great Law of Peace. The former supported peaceful but separate coexistence with non-Indians, as a canoe and a boat can both travel down the same river, provided each crew rowed their own boat only, and did not attempt to straddle both. According to this treaty, any Mohawk who would submit to any other government would be treated as a traitor.

The latter also supported separate sovereign status and nonsubmission, and it recommended not bearing arms and preferring peace (Pindera and York, 1991).

Unfortunately, although the Mohawks were perceived as patriots whose cause was valid even by some of the soldiers who eventually replaced police at the barricades, their situation placed them in a vicious circle. If they were not recognized as a separate nation, they could not bear arms in their own defense or in support of their territorial claims. But without arms, "they will not be able to affirm their rights as a nation" (Pindera and York, 1991) or to protect disputed territories, until negotiations and peaceful talks could help rectify the problem.

At the Mohawks' request, international observers were allowed into the Pines, and it is very important to hear their comments:

"The only persons who have treated me in a civilized way in this matter here in Canada are the Mohawks," said Finn Lyng Hjem, a Norwegian judge. "The army and the police do nothing. It's very degrading . . . degrading to us, and perhaps more degrading to the government who can't give us access." (Pindera and York, 1991)

When Premier Bourassa asked the international observers to leave, they warned Québec and Canada of the "dangerous precedent" that had been set by arbitrarily breaking off talks (Pindera and York, 1991). After many fruitless weeks of barricades and occupation, while the Mohawks' case became the cause for all First Nation people, no progress was made on any of their demands. Eventually the warriors decided to disengage, and accept the word of the Canadian Government that their land claims would be seriously considered. The warriors were taken off in police vehicles, each with several plastic handcuffs, as they showed they could easily break one handcuff with their bare hands. As a last gesture of defiance, a Mohawk Warrior Society flag was smuggled onto the bus and waived at onlookers as the police bus took them away.

This, unfortunately, was not the end of either violence or racism. Many of the warriors were badly beaten by the police during "interrogations." Some were roughed up as they were arrested and charged with "rioting and obstruction of justice." In addition to Corporal Lemay, two Mohawks died. One, an elderly man, died of heart failure after a stone-throwing mob attacked him at the outskirts of town; the other was poisoned by tear gas and died later.

It is noteworthy that the Canadian Army (which eventually replaced the police) had been used only once before in Canadian history against domestic rebels, in the 1970 FLQ Crisis. The crisis at Oka was described in the Canadian press as "the greatest ever witnessed in Quebec, Canada, even North America." Finally, more than ten months after the end of the conflict, disciplinary hearings were held "to examine the conduct of eight senior officers of the Quebec police, and of 31 junior officers, during the Oka crisis" (Pindera and York, 1991). No information is available about the outcome of these hearings, and neither Québec nor Canada showed any

desire to improve relations with the people of the First Nation of Canada, even after the conflict.

2. Environmental Racism, Environmental Justice, and Terrorism: The Canadian Difference

In this section, I define and describe environmental racism in general; relate the specific position of the Indians of Canada's First Nation to environmental racism, so that the difference in their case becomes clear; and discuss the interconnectedness of the land issue and the environmental questions in relation to territorial rights. I argue that the Mohawks' position required them to take a stand and even to take arms, and that the response of the federal government could be fairly characterized as state terrorism.

A. Environmental Racism

Environmental racism can be defined as racism practiced in and through the environment. It refers to environmental injustice whereby, for instance, toxic and hazardous waste facilities and business operations are sited with disproportionate frequency in or near poor, nonwhite communities. Speaking of the United States, Robert Bullard says:

If a community is poor or inhabited largely by people of color there is a good chance that it receives less protection than a community that is affluent or white. (Bullard, 1995)

This is a recurring situation because in the United States, environmental policies "distribute the costs in a regressive pattern, while providing disproportionate benefits for the educated and the wealthy" (Bullard, 1995). One does not find "municipal fills and incinerators; abandoned toxic waste dumps; lead poisoning in children; and contaminated fish consumption" (Bullard, 1995) in wealthy white neighborhoods. This disparity has been institutionalized, and has led to disregard for and ultimately to ecological violence perpetrated against people and communities of color.

Further, although both class and race appear to be significant indicators of the problems outlined, "the race correlation is even stronger than the class correlation" (Bryant and Mohai, 1990; United Church of Christ Commission, 1987). What is particularly disturbing about this trend is that the ecological violence that is amply documented and that targets vulnerable and often trapped minorities is not a random act perpetrated by a few profit-seeking operations that could perhaps be isolated and curtailed or eliminated; it is instead an accepted, institutionalized form of doing business, taken for granted by most and ignored by all.

This institutionalized pattern of discrimination is an anomaly in a world that is committed to "political correctness," at least officially and in the so-called free world (Narveson and Freedman, 1994). For instance, both in Canada and the United States, neither government institutions nor corporate bodies would deliberately promote or practice hiring in an openly

discriminatory manner, nor explicitly advocate segregation in housing or education. Although both women and minorities often still feel that either covertly discriminatory practices or "glass ceilings" exist both in business and government that prevent them from achieving their full potential, still these difficulties are not openly fostered by institutions.²

Yet the practice of placing hazardous business operations such as dumpsites and other waste facilities in the "backyards" of minority groups is practiced regularly, with no apology, and described as a purely economic decision, with no consideration for the unjust burdens it may place on individuals and affected communities who are often too poor and weak to fight back (Rawls, 1993; Gewirth, 1983). Similarly, when the United States Environmental Protection Agency uses Superfund and other means to ameliorate acute problems in white neighborhoods long before it even acknowledges or attempts to respond to environmental emergencies in black ones, then it appears that environmental racism is practiced almost by rote, with little fear of retribution. Bullard says:

The current environmental protection paradigm has institutionalized unequal enforcement; traded human health for profit; placed the burden of proof on the "victims" rather than on the polluting industry; legitimated human exposure to harmful substances; promoted "risky" technologies such as incinerators; exploited the vulnerability of communities of color. . . . (Bullard, 1994)

The same type of ecological destruction is practiced overseas by the countries of the North and the West in relation to the countries of the South and the East. Toxic dumping and other unfair burdens are routinely imposed on less-developed countries whose leaders are often all too willing to trade off safety on behalf of their uninformed and unconsenting disempowered citizens for Western hard currencies. Those who may respond that no racism is involved, as the hazardous transactions simply reflect economic advantage and "good business sense," ignore the fact that most often the perpetuation of "brownfields" is founded on various forms of earlier segregation and racism. (Brownfields are areas that have been used for dumps or unsafe business operations. They are deemed to be appropriate locations for more of the same practices than are wealthier and relatively cleaner neighborhoods.)

In the global marketplace, this approach has been termed the practice of "isolationist strategy" (Shrader-Frechette, 1991). In this case, the restraints and controls that businesses may employ in their home countries are not carried on in interaction with South and East countries abroad. Relying on several arguments, such as "the countervailing benefit argument," "the consent argument," "the social progress argument," and "the reasonable possibility argument," the isolationist strategy replicates many "segregation" arguments and thus cannot be acceptable from a moral standpoint (Shrader-Frechette, 1991).

Unfortunately, poor communities often cannot fight off the harm that threatens them insidiously, through environmental contamination. When

they actually try to do so, however, especially in present times and in the better educated and organized countries in North America (rather than in impoverished Third World nations), they may reach a favorable outcome. For instance, in a recent, ongoing case in Titusville, a neighborhood in Birmingham, Alabama, a community group decided to fight Browning-Ferris Industries, which intended to site a waste transfer station in their neighborhood. The area was already legally the site of "heavy industry," but garbage was to be excluded, according to the township ordinance. It was also one of the few areas where African Americans had been able to buy property in the city of Birmingham, so that the whole community was and is one of color. In this case, the community was exposed to a lengthy legal battle and even police violence as they demonstrated in the park between Birmingham's City Hall and its Civil Rights Institute. In the end, the city won against BFI, and the infamous facility, already built, stood empty as late as November 1994, when I visited at the invitation of the community leader, Whitlyn Battle, and the lawyer, David Sullivan. In this case, the perpetuation of "brownfields" in one specific area indicates the institutionalized intent to burden disproportionately citizens of color with society's hazards, without consent or compensation (Westra, 1995a; cf. Greenpeace, "Not in Anyone's Backyard! The Grassroots Victory over Browning-Ferris Industries," 1995 [Video]).

Examples of this kind of problem could be multiplied, although citizens' victories are rare indeed. From toxins in Altgeld Gardens in Chicago (Gaylord and Bell, 1995), to radioactive waste in Louisiana (Shrader-Frechette and Wigley, 1995) and predominantly in the southern United States (Bullard, 1994), the story can be repeated again and again with slight variations, and with the black communities regularly the losers. But it is not only the urban minorities that are so targeted; their rural counterparts fare no better. "Geographic equity" does not exist in North America any more than it does in less-developed countries.

B. Environmental Racism and the First Nation: Human, Religious Rights to Self-Defense

Recently there has been growing support for the defense of minority groups against the ecological violence perpetrated against them. The First National People of Color Environmental Leadership Summit was held in October 1991 in Washington, D.C. It united many grassroots groups and inspired them to seek governmental and national support for strategies to eliminate the rampant environmental racism practiced against them (First National People of Color Environmental Leadership Summit, p. 3). In this section, I argue that the case of Canadian Indians is quite different in several senses from what has been described, although it remains environmental racism. Their case is unique because health and safety are not their only concern. Natives require high levels of environmental quality to meet both physical and spiritual needs. They need the land they inhabit to be free of toxic and chemical hazards so that various species of animals and fish, which are part of their traditional diet, do not suffer or disappear; but they

also need spiritually to be able to live in a way that is consonant with their worldview. The latter is grounded on respect for all living things with whom they share a habitat.

It can also be argued that the Native traditional worldview is so much a part of their deeply held values and beliefs that it can be considered a religion common to most Indians in North America. Quite aside from the issue of status as a separate nation discussed in section 1B, the Mohawks' respect for their own ecologically inspired lifestyle should be treated as a matter of constitutionally protected right to freedom of religion under the Canadian Charter of Rights and Freedoms. In fact, the Great Law of Peace, which forms the basis for the Oka Warriors' ideology, does not separate "church" and "state":

it provides a complex combination of spiritual and political rules. . . . It is the rule book of an entire way of life. . . . It forms the thesis of a modern theocracy. (Pindera and York, 1991)

Hence the rights of the Mohawks to their traditional ways can be supported on the basis of freedom of religion, even before considering their separate national status. Unlike other minorities, these religious rights and freedoms are inseparable from environmental protection.

Finally, this approach to ecological protection for large areas of wilderness is necessary for global sustainability, and the Indian traditional way is closer to the mandate to "restore ecosystem integrity," which forms the basis of Environment Canada's "vision" statement, and a host of other regulations and mission statements, globally (Westra, 1994a, 1995b). In sum, ecological concern is everyone's responsibility, but traditional American Indian attitudes toward nature appear to be particularly apt for supporting an environmental ethic (Callicott, 1989; Rabb, 1995). These attitudes also provide yet another reason why the Indians ought to have been permitted the peaceful enjoyment of their territory, and why their wishes in relation to the land ought to have been respected. The priests at St. Sulpice were granted lands twice on behalf of the Indians, with express instructions to administer the lands for them. In fact their second request explicitly cited the Indians' needs and lifestyle, to request larger areas from the king of France. The priests' needs or their economic advantage were never considered. Their role was not that of owners, but that of caretakers and managers of the granted territories. Hence it would be unfair to penalize the Mohawks for the repeated sale of lands that were meant for their sole use and enjoyment. The lands were exploited, mismanaged, and sold inappropriately, illegally, and in clear violation of the mandate from either the king of France or that of England (Pindera and York, 1991).

C. Land, Environment, Territorial Rights, and Native Identity

I have argued that the police of Québec, the federal government's officials, and the residents and bureaucrats of Oka can all be charged with environmental racism. To prove this, it is not necessary to demonstrate

specific intent on the part of any one person or group, as environmental racism may be perpetrated through carelessness, self-interest, or greed. It is sufficient to show that the practice is accepted and even institutionalized in a way that does ecological violence to a specific community or group of color. I have also argued that in this case the Indians' historical and legal claim to independent nationhood as well as their traditional lifestyle, culture, and religious belief all contribute significantly to their right to take a stance against environmental racism. The same combination of factors renders their resistance, their unshakable position, and even their bearing arms, potentially justifiable on moral grounds. Moreover, if their position is morally defensible, then their activities should not be viewed as crimes against the law, but as self-defense, conscientious objection, and affirmation of religious and cultural self-identity. That in turn makes the actions of both police and government in support of ecological violence and repression possible forms of state terrorism. It is this particular situation and combination that makes environmental racism distinctly Canadian in this case, as I argue below.

As the cultural self-identity argument is based on the understanding of the Indians as a people, one might ask, what makes a "people" other than law or custom? Do citizens voluntarily form associations, and is it their choice that makes them a community or a nation? Or is it the case that common allegiance to a state constitutes a nation or people? On what grounds, then, is national identity to be grounded? According to Henry Sidgwick (1891), legitimate government rests upon the consent of the governed, hence the "voluntarist" model of what constitutes a nation "derives from the rights of individuals to associate politically as they choose" (Gilbert, 1994). But it is hard to understand what makes a specific association worthy of recognition, other than the exercise of the citizens' collective will, as people willingly form associations that may be less than worthy of respect (e.g., the Ku Klux Klan). Another approach may be to appeal to a national character, emphasizing shared characteristics that might constitute a national identity. Paul Gilbert (1994) termed this "the ethnic model of nationality." But to view nations as species of "natural kinds" is to subscribe to a racist theory whose pitfalls we have all learned in Nazi and Fascist times (Gilbert, 1994). There are, however, other, better ways of conceiving of national identity: "culturalism," for instance, provides a useful model. This approach cannot rely exclusively on religion, which usually transcends national borders, hence language, common practices and aspirations, and possibly even territory are required as well (Gilbert, 1994). Even someone's upbringing is constitutive of the national identity of individuals. Will Kymlicka (1990) also discusses the parallel conception of "communitarianism," that is, viewing nations as groups living a common life in accordance with their own rules, hence this "community" view or "cultural view" (Gilbert, 1994), is also relevant to establish national identity. As Kymlicka (1991) points out, "Cultural membership affects our very sense of personal identity and capacity."

First Nation people in general and Mohawks at Oka in particular can claim national identity, based on what Gilbert terms "culturalism" as well

as their biological heritage, and Kymlicka speaks of a "cultural heritage" for all Indians in Canada. This supports the Indians' claim that they are a "people," and that they can therefore demand to be treated as such:

"All peoples have the right to self-determination" declares the first article of the United Nations International Covenant on human rights. That is to say, they have the right to independent statehood. (Gilbert, 1994, p. 100)

If this is the case, then certain other rights follow from it; for example, "their right to throw off alien occupation, colonial status or absorption into some other state" (Gilbert, 1994). Further, at Oka, it seems that not only were the Mohawks treated unfairly, so that some suffered harm as the cost of increased benefits to others (an immoral position); but also they were treated unjustly (an illegal action, additionally), because they were wronged through discrimination: "Discrimination mistreats individuals *because they are part of a certain group*, so that the primary object of mistreatment is the group of which they are a part" (Gilbert, 1994, p. 102; emphasis added).

But Gilbert's discussion, which is primarily about possible explanation and justification for terrorism in certain circumstances, is intended to deal with the situation between Israel and Palestine and that between Ireland and England. Hence, it cannot apply precisely to our case, although, as we have seen, many parallels can be drawn.

What is required, then, is to understand the specific way in which racism and discrimination is practiced against Indians in Canada that distinguishes their situation completely from that of African Americans in the United States and of Africans and inhabitants of other less-developed countries. As was argued earlier, the intent of the Executive Order by which President Clinton established an Office of Environmental Justice was to eventually eliminate all practices excluding black communities from the environmental protection and concern that favored white communities and to grant them not only defense against environmental threats, to some extent, but also redress in case of problems or accidents, both of which were not equally available to communities of color.

African Americans want to be included within the larger community. They want to avoid the de facto segregation to which exclusionary practices condemn them. They can argue that neither in housing, nor job seeking, nor schooling is segregation legally permitted at this time; thus, as I suggested earlier, environmental racism constitutes a "last frontier," or the only area within which racism is not only tolerated, but neither criticized nor discouraged or punished as such by the law.

The interest in avoiding this form of racism is equal for Indians and blacks. But the forms of discrimination, aside from those that involve the environment, are quite different for Canadian Indians; they are in fact opposite to those that affect blacks. Any "color-blind" interpretation of the law is inappropriate for Indians: it is integration that is viewed as a badge of inferiority by Indians, not segregation. As Michael Gross put it, in talking about education, for instance:

Where blacks have been forcibly excluded [segregated] from white society by law, Indians—aboriginal people with their own cultures, languages, religions and territories—have been forcibly included [integrated] into that society by law. That is what the Senate [subcommittee on Indian Education] meant by coercive assimilation: the practice of compelling, through submersion, an ethnic, cultural and linguistic minority to shed its uniqueness and identify and mingle with the rest of society. (Gross, 1973)

Hence, simply granting Indians the same rights as all Canadians is not only insufficient, but essentially wrong. Kymlicka (1991) said that “the viability of Indian communities depends on coercively restricting the mobility, residence, and political right of both Indians and non-Indians.” It is therefore a necessary component of the Indians’ rights and liberties to deny non-Indians the right to purchase or reside on Indian lands. A fortiori, then, the right to adversely affect and pollute or otherwise ecologically affect these lands should be equally impermissible. Hence the activities of non-Indians in lands adjacent to Indian lands must be consonant with a “buffer zone” (as it is, for instance, in MAB [Man and the Biosphere] areas surrounding a wild “core” zone; see Westra, 1995b).

In the concluding section, I argue that the Mohawks’ actions were morally defensible and discuss the government’s interventions as motivated by environmental racism supported by terrorist attacks.

3. Conclusion: National Identity, Environmental Racism, and State Terrorism

On the account presented in the last section, the cause of the Mohawks at Oka can be defended as just on moral grounds: Environmentally and culturally they were clearly under attack. Those responsible for the circumstances in which the Mohawks found themselves were guilty not only of racism but of environmental racism. The final question that must be asked at this point is whether the Mohawks were justified in taking up arms, and whether the police and the army were justified in the way they handled the Warriors after the disengagement. The Mohawks are not the first or even the only people who have resorted to civil resistance and even violence in defense of the environment. What makes their acts different and in fact unique has been described in the discussion presented in the previous sections.

In contrast, those chaining themselves to trees at Clayoquot Sound in British Columbia in 1997 came from all over Canada, and could have in fact come from anywhere in the world in defense of the common cause: protecting the environment in general. The Indians also shared this generalized concern, as I have shown, through their concern for the forest in relation to the township. The Mohawks were also motivated by other, specific reasons: the way their identity as a people is dependent on a certain place, so that any attack on either its size or its environmental quality and integrity must be construed as an attack on their identity; and the spiritual and religious

components of their need for the land, which go beyond our own acknowledged need for wild places for various reasons (Westra, 1994a).

Hence, for the Indians, defense goes beyond ecological concern in a general sense. It becomes a case of self-preservation. That makes bearing arms for that purpose more than a simple criminal act, as some claimed. Hence, the paradigm or model according to which the Mohawks' activities must be viewed is not that of breaking the law or that of committing crimes. The closest model is that which fits other binational territorial disputes, such as those between Ireland and Britain, or between Israel and Palestine where, as Gilbert has argued, border disputes are not open to democratic decisions based on votes. Neither Israelis nor Palestinians can democratically decide on the location of a specific border affecting their two nations. The only avenues open to these national groups, as to the Irish in their territorial dispute, are either to declare war or to attack or respond to violence through terrorist attacks, outside a formal war situation.

Therefore these acts cannot be simply defined as "random violence" or as crime, because significant differences exist: the perpetrators announce their intention to stand their ground or to fight, and publicize their political motives explicitly, in contrast with the hidden and furtive activities of criminals. Hence, the Mohawks' use of force must be viewed, and perhaps justified, in terms of terrorism, not random violence.³ It is important to note that they resisted and defended, but did not launch violent attacks beyond their own territories: in fact all their interactions and negotiations with the representatives of the Canadian government or the township were characterized by reasoned arguments, and the repetition of their claims and the reasons for those claims, coupled with the sincere desire to achieve and maintain peace. They bore arms for self-defense, not attack.

I have argued elsewhere that often even terrorist aggressive violence may be defensible in principle, though not in its practical expression, and I have called defensible violence of this sort a form of "whistle-blowing," as it calls attention to some grave injustice (Westra, 1990). The extent of the injustice and the discriminatory treatment, neither of which were random occurrences but rather formed a historical pattern on the part of the Canadians, has been discussed previously. Their perpetration justifies, I believe, resistance on grounds of self-determination. The Mohawks' resistance then becomes analogous to that intended to throw off foreign occupation (Gilbert, 1994).

The events may be described, using Gilbert's (1994) felicitous expression, as an "ethical revolution." Such a revolution is typically based on a "different conception of the state and the community." It is an "inspirational aspect of violent change," which might be of two kinds: "ethically conservative" or "ethically radical." The former appeals to values that the resisting group shares with the majority, including its opponents, but that are not properly implemented. The latter "makes its case on the basis of a change in the values themselves," and is persuasive because it demands a change of values. The Mohawks' case seems to fit the second model. They can be seen as "ethical revolutionaries," as people who "seek to change the criteria for membership of the political community" (Gilbert, 1994, pp. 90-92).

The Mohawks were criticized for not using democratic means to state their grievances and get redress, but their grievances were not of the sort that can easily be settled by democratic means. This is because the very core of their complaint was that the Mohawk nation was not viewed as an equal, viable political community, responsible for decisions affecting their people and their land. It is here that the parallel with terrorism becomes even clearer.

International terrorism is most often concerned with territory and political equality. But claims to self-determination should be made within existing borders, an impossibility when the very extent of the territory within those borders is at issue (as argued earlier), and when the dissenting and protesting group is in a clear minority position. But in that case, the group seeking redress that is, as in this case, at the same time environmental, territorial, and concerned with national independence, has no democratic recourse, no peaceful voice through which to make its claim other than perhaps attempting a "sit in" to gain national and international attention. It seems as though it must resist, even while seeking peace. And if its arguments and claims are not heard and respected, it seems as though its only recourse is to resist attack, and bear arms. Note that the Mohawks were indeed resisting peacefully, and turned violent only when violently attacked.

What is the state to do in response to such a position? Should it respond with force and attack? But then can we not charge it with hypocrisy and view its actions as open to a *tu quoque* argument (Gilbert, 1994). It is not sufficient, as we have seen, to say that government force must intervene to punish crime, as the Indians were not breaking a law to which they were legitimately subjected. On the contrary, their claim is that *that* law is not their law, *that* state is not their state, and its values are not theirs. In this, the Canadian Constitution appears to support their position. When weighing the forms of violence (that is, the Indians' and the state's), there seems to be little cause to view the former as "wrong," the latter as "right," from the moral standpoint.

The stronger the moral case for the Mohawks, the weaker, morally, is the case for the "legal" repression and violence they had to endure. Whereas the reasons for supporting the Indians' position at Oka are many and defensible, only one possible reason can be given in support of the Army's intervention (Gilbert, 1994). The state has the authority to enforce the law and to punish crimes. But is the state's violence against those who are not subject to its laws (or whose major claim for resistance is that they are not) morally better than their opponents' resistance? When we compare even terrorists' action "seeking to gain power, and those of the agents of the State in seeking to retain it" (p. 127), there may be no *moral* reason to term the former "criminal" and the latter "punishment of crime." This is particularly the case because there was no violent attack on the part of the Mohawks, and the main reason for the latter's resistance was to protest the assumption that they were in fact subject to those laws.

It is also clear that the other alternative, that is, the presumption that although the Mohawks belonged to a separate, sovereign nation, Canada

could bear arms against them as a form of warfare, is not appropriate. Rules of war demand that if violence is to be part of a just war, then the war should first be openly declared. This is the reason why terrorism is not precisely warfare, whether it is practiced by dissenting groups or by the state itself. State terrorism, therefore, refers to violent responses to terrorism on the part of a government. It is often the alternative preferred to simply treating terrorists as criminals (that is, as innocent until proven guilty, using restraints but not violence against them, and so on). But although a violent response is often employed, this use of state power is hard to justify as anything other than retaliation:

State terrorism involves warlike intentions which are impeded by constraints from issuing in open war. These constraints are characteristically political rather than military, reflecting . . . political inhibition resorting to (war). (Gilbert, 1994, p. 129)

However, Gilbert adds that normally, "internal state terrorism" does not have the "warlike aims" of "acquisition and control of territory." It seems that the Oka situation instead manifested precisely this aim; perhaps then it represents an atypical form of state terrorism as it has this added component while manifesting many of the usual ones as well.

On the other hand, as Gilbert outlined and defined state terrorism, the federal government's intervention through the police and, particularly, through the army appears to fit under this heading. The state, of course, purports to be operating "within the framework of the law, which it presents itself as upholding." But if its legal framework is "unable to resist terrorism," then the state may simply "resort to the covertly warlike operations which constitute state terrorism" (Gilbert, 1994, p. 130). Yet, lacking an openly declared war, the ordinary rules of civil life should guide the state's acceptable intervention. Armed attacks on dissenting citizens of another country (or even of one's own), or beatings as part of "interrogation" or "capture," are not the way the state ought to deal even with hardened criminals or serial killers, before or after sentencing. Hence the state denounced the Mohawks as criminals during the crisis but only belatedly treated them as such after their case came to court. Throughout the crisis, a state of war appeared to prevail, giving additional credence to the Mohawks' claim to sovereignty and national independence, something that is already legally valid in Canada for people of the First Nation in general.

It is clear that the federal government cannot have it both ways: either its attack on resisting Mohawks was war, in which case (1) a proper declaration of war, (2) the recognition of their independent nationhood, and (3) adherence to the rules of war were mandatory, or it was not. Further, over and above these formal requirements, from the moral standpoint, only a war of self-defense (from an actual attack, not from dissent), may be viewed as a just war (Westra, 1990). Or, we might accept the other alternative, that the state was viewing the Mohawks' resistance as criminal. It has been shown that this does not appropriately describe the government's response: Unless a criminal is currently attacking a police officer, for

instance, drawing fire against him is not a permissible, legal response. As explained earlier, the Mohawks were standing their ground, not even fleeing from the law, and “[i]f terrorists are denied due process of law, then the same acts are criminal” (Gilbert, 1994, p. 131).

To start shooting prior to trial and conviction of specific individuals is to deny them due process. Even had the Mohawks been convicted criminals or killers, retaliation in kind would not have been appropriate, particularly in a country with no capital punishment. And, it must be kept in mind, no one was ever found guilty of murder. Those who were considered the “worst offenders” were perhaps Ronald Cross (nicknamed “Lasagne”) and Gordon Lazore. Helène Sévigny reports on the actual sentencing:

Sentence “*Sa Majesté la Reine vs. Ronald Cross et Gordon Lazore*” Province of Quebec, District of Terrebonne, No.700-01-000009-913; Judge B.J. Greenberg, Superior Court, Criminal Division, St. Jerome, Feb. 19, 1992. The two were found guilty of half of their charges, primarily attacks with “arms” such as baseball bats. The case was appealed Feb. 20, 1992. On July 3, 1992, the other 39 Mohawks that were originally taken from the barricades and detained, were acquitted. (Sévigny, 1993, 229–288; my translation from the French)

The Mohawks’ well-founded message and their fight against racism in all its forms, including its environmental aspect, has been around for a long time, as has the Indians’ effort to have their cause and their reasons heard. Gilles Boileau’s indictment of the “lords wearing cassocks” (“*les seigneurs en soutane*”) presented a detailed historical account of the difficulties the Mohawks had to endure (Boileau, 1991). Boileau’s final exhortation to the “seigneurs” is one that should be taken to heart by all Canadians:

The “Messieurs” and all others must recognize that the Mohawks have a right to “their dignity and our respect,” and it is high time that Oka should be recognized primarily as Indian Land. (Boileau, 1991)

In conclusion, the Oka case combines several unique features specific to the Canadian political scene. It manifests aspects of environmental racism, as the ecologically inappropriate choices of a non-Indian majority were to be imposed on the Mohawks, without regard for their traditional lifestyles. At the same time, this imposition infringed on their right to self-determination and their constitutional status as a First Nation. Finally, the case shows the inappropriate use of force and the employment of state terrorism in response to the Mohawks’ position, a position that, I have argued, is defensible on moral, environmental, and legal grounds.

Notes

¹ All information in this section is taken from the Background Paper “The Land Claim Dispute at Oka,” Library of Parliament, BP-235E, 1990.

- ² Velasquez, M., *Business Ethics, Concepts and Cases*, Englewood Cliffs, NJ: Prentice Hall, 1991; see chap. 5 for a discussion of “institutional discrimination.”
- ³ Terrorism may be viewed as having the characteristics of both war and crime. It can be said that it “essentially means a method of war which consists of intentionally attacking those who ought not to be attacked” (Teichman, 1986). Paul Gilbert terms this the “unjust war model” and contrasts it with the “defensive war model,” which would permit a more open-minded view of terrorism, linking it to such potentially justifiable acts as “tyrannized” or other forms of self-defense. This view would also permit us to distinguish it from criminality, in cases dealing with terrorism for national reasons. See Gilbert, *Terrorism, Security and Nationality*, especially chaps. 2 and 3.

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