From the Indian Act to the Far North Act:
Environmental Racism in First Nations Communities in Ontario

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Abstract

The environmental justice (EJ) movement represents the initiatives that challenge the unequal burdens of chemical contamination, pollution, and the siting of hazardous waste facilities. The study of environmental racism (ER) is a specific phenomenon recognized under the EJ movement which includes racial discrimination in any of the following: environmental policy, regulation and planning; the siting of hazardous waste and industrial facilities in communities of colour; and the exclusion of people of colour from equal participation in mainstream environmental groups and decision-making processes. EJ and ER were originally developed as concepts in African American communities in the United States. However, the application of ER is particularly valid with respect to First Nations communities in Canada; they have been subject to racist ideologies and practices since their first encounter with Anglo/Franco colonialist powers, often resulting in profound environmental change and hazards. This paper explores the institutional origins and effects of environmental racism in several First Nation communities in Ontario. Case studies of the Kashechewan and Aamjiwnaang First Nations are discussed, and the potential for the recent Far North Act (Bill 191) to exacerbate ER is investigated.
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Introduction

The study of environmental racism (ER) is the specific study of how inequalities of environmental quality within human populations are related to race. ER is a specific issue under the broader environmental justice (EJ) movement which strives to achieve more equal distribution of environmental protection and also of environmental burdens across all levels of socioeconomic status, nation, race, and gender. ER was originally recognized in the United States in how African American communities appeared to host a disproportionate share of the country’s waste disposal sites and contaminated properties. Apart from market and land value processes, it became apparent that race was an independent factor that could be linked to these disparities. As in the US, minorities in Canada have also been subject to different forms of racism. Despite national initiatives which promote and encourage support of diversity, certain minority groups suffer environmental injustices similar to those in the US.

The beginning of the recognition of ER as an identifiable process can be traced back to the 1982 Warren County protests against the dumping of PCB-contaminated dirt in a landfill in the primarily black community of Warren County, North Carolina. According to Schrader-Frechette (2002), “Evidence illustrates that minorities who are disadvantaged in terms of education, income and occupation not only bear a disproportionate share of environmental risks and death but also have less power to protect themselves” (p.6). Such was the case in Warren County, and other important contributions have been made to the study of ER since this incident.
Institutional processes—that is, processes linked to legislation from any level of government—including former slavery, exclusionary zoning laws, and the emergence of the environmental movement from the conservation movement are partly responsible for these injustices.

Minorities in Canada as well, both past present, have been subjected to ER. While the definition and original context of ER was developed in the US, similar patterns do exist in Canada creating conditions of poor environmental quality and protection amongst minorities. Of particular concern is how Indigenous peoples across Canada have been affected. Certain First Nation communities in Ontario are but one example illustrating the extent of the situation. The institutional processes than have resulted in these scenarios can be traced back to legislation such as the *Indian Act* and more recently various clauses under Ontario’s land-use planning initiatives, such as the *Far North Act*. Consequences of these policies include First Nation reserves receiving substandard quality drinking water, insufficient environmental and health protection, and also the inability to effectively participate in the planning process through consensus-based decision-making. Some of these problems have been documented in the Kashechewan, Aamjiwnaang FN reserves; the two case studies presented in this paper will outline the conditions and consequences that can be considered forms of ER here.

Gaining an understanding of how environmental issues directly affect people and how the discourse is not limited to “wilderness” and remote places is very important; the term “environment” equally occupies areas of human settlement. Furthermore it is critical to understand that problems related to deteriorating environmental conditions are not evenly distributed. Minority groups, impoverished communities, and indigenous peoples world-wide are frequently the most affected. The study of environmental racism and the movement to challenge
it in Canada pales in comparison to that in the US, but there are ongoing processes of ER here as well.

Methods

This social/environmental science study involved a comprehensive review of the literature pertaining to environmental racism and environmental justice in both Canada and the United States. The review of American literature was necessary to frame the original concept of environmental racism as a phenomenon resulting from institutional processes, which can be applied elsewhere. Secondary sources analyzing the case studies of the Kashechewan drinking water crisis and the health effects resulting from chronic chemical exposure in the Aamjiwnaang First Nation were analyzed. Further understanding of legislation affecting Canadian First Nations was obtained through review of federal and provincial acts (primary sources) including the Indian Act (1867) and the recent Far North Act (2009).

Research purposes

The purpose of this science study is to investigate if ER does in fact take place in Canada. This research compares the expression of ER in the Canadian context versus that in the American context. Specifically, the study is designed to investigate the prevalence of ER among
First Nation settlements in Ontario. Furthermore, the institutional processes responsible for its development are considered. Case studies presented include: the Kashechewan reserve and the causes of the contamination of their drinking water system; and the Aamjiwnaang reserve and the consequences of its location in the ‘Chemical Valley’. Finally, the study presents the contributions to ER of Ontario’s recent *Far North Act*, Bill 191.

Three basic questions were addressed (see Table 1), and the majority of this study focuses on the second question. For the second question, considerations for classification of environmental effects as processes of ER were assessed on the basis of three criteria, adapted from the original concept of ER as defined by Dr. Benjamin Chavis Jr., former executive director of the National Association for the Advancement of Coloured People (NAACP) (see Table 2).

**Table 1: Focus questions**

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<thead>
<tr>
<th>Question Number</th>
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<tr>
<td>1</td>
<td>Does environmental racism take place in Canada? If so, what institutional problems are responsible for it?</td>
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<td>2</td>
<td>Are First Nation populations affected by environmental racism? If so, how?</td>
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<td>3</td>
<td>How do manifestations of this concept compare with those witnessed in the United States?</td>
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**Table 2: Metrics for assessing environmental racism**

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<th>Metric Number</th>
<th>Criteria Consideration* (Racial discrimination in...)</th>
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<tr>
<td>1</td>
<td>Environmental policy making, regulations and enforcement</td>
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<tr>
<td>2</td>
<td>The siting of polluting industries/facilities in communities of colour</td>
</tr>
<tr>
<td>3</td>
<td>The exclusion of people of colour from the mainstream environmental groups, decision-making processes</td>
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I—The American Context

Environmental Racism includes “racial discrimination in environmental policy-making, enforcement of regulations and laws, the deliberate targeting of communities of colour for toxic waste disposal and the siting of polluting industries. It is racial discrimination in the official sanctioning of the life-threatening presence of poisons and pollutants in communities of colour. And, it is the racial discrimination in the history of excluding people of colour from the mainstream environmental groups, decision-making boards, commission, and regulatory bodies”—Reverend Dr. Benjamin F. Chavis Jr., National Association for the Advancement of Coloured People (NAACP), former executive director

Environmental Racism has been recognized by environmental groups and academics as an actual form of institutionalized racism that occurs in the United States. This recognition is supported by a relatively large body of literature dating back to the 1980s beginning with the publicity of the Warren County, North Carolina PCB landfill controversy. Since this time scholars, politicians and community activists alike have worked to publicize this phenomenon as well as to advocate for the cause of the minority communities receiving the brunt of its
consequences. ER was arguably first recognized in the United States and it was here that its definition was established. Environmental racism refers to “racial discrimination in environmental policy-making, enforcement of regulations and laws, the deliberate targeting of communities of colour for toxic waste disposal and the siting of polluting industries. It is racial discrimination in the official sanctioning of the life-threatening presence of poisons and pollutants in communities of colour” (Checker, 2005, p.14). A number of visual tools have been created which effectively demonstrate the prevalence of ER. A map of Los Angeles County, for example, shows a correlation between percentage “people of colour” and “toxic release facilities” (see Figure 1). Some specific examples of this process include the encouraging of African American families by real estate agents to move toward areas in proximity to existing ghettos; and the frequent rezoning of minority communities from residential to commercial or light industrial uses (Checker, 2005). Subtle expressions of ER such as these can be traced back to the historical exclusion and stereotyping resulting in the lack of representation of African Americans in city councils and in other local governing administrations. Furthermore, employment discrimination resulting in lower wages and a lack of access to jobs reduces the possibility for these affected people to leave contaminated areas (Checker, 2005). It is not necessarily that every negative impact on minority communities is intentional; racist consequences (whether intentional or not) constitute this process.
Figure 1: Correlation between communities of colour and polluting facilities (Los Angeles County)

Academic studies have demonstrated that in the United States the distribution of environmental hazards is uneven; ethnic minorities face more of these hazards in their homes, neighbourhoods and workplaces. For example, a study in 1999 by the Institute of Medicine and National Academics (an NGO education the public on matters of science and medicine) entitled “Toward Environmental Justice: Research, Education, and Health Policy Needs” studied the correlation between socio-economic status, ethnicity and exposure to pollution. The findings revealed that “communities populated by low-income groups and people of colour are exposed to higher levels of pollution than the rest of the nation and that these same populations experience
certain diseases in greater numbers than more affluent white communities” (Bullard, 2005, p.4). What is so disconcerting about this trend is that it is simply not a matter of market pressures causing low-income groups (which often are either immigrant or ethnic minority communities) to live in areas of low market value which is generally where such industrial pollution is sited; rather, the trend can be traced back to manifestations of institutional racism—that is, racism at the level of government and governmental policy rather than at the level of the individual or the community. Environmental and land use regulations (especially zoning regulations) often result in politicians and members of planning boards having the power to decide where to place such undesirable facilities or waste by-products. According to Bullard (2005), “Many of the differences in environmental quality between black and white communities result from institutional racism. Institutional racism influences local land use, the enforcement of environmental regulations, the siting of industrial facilities, and for people of colour the choice of place to live, work and play” (p.32). This distinction of “institutional” racism is important because it signifies or implies discrimination resulting from government framework. For ER to be recognized as a credible phenomenon in the US (and for that matter in Canada as well) it is necessary to identify its processes as occurring through government regulation and policy.

One of the most significant sources of ER at the institutional level in the US is in zoning regulation. Exclusionary zoning, more specifically, is a type of zoning whereby laws are used to zone against something rather than for it. The result is that communities that have the power to zone against the placement of an objectionable feature are able to disallow its placement in their area. These ‘communities that have power’ are able to exclude undesirable industries which end up in communities that do not have power: minority communities (Bullard, 2005). One factor that causes zoning boards to favour the more affluent white communities over other groups is the
relatively low level of minority representation present on these committees. A 2003 report from the National Academy of Public Administration entitled “Addressing Community Concerns: How Environmental Justice Relates to Land Use Planning and Zoning” observed that the majority of members on planning and zoning boards are white, middle-aged men (Bullard, 2005). The study showed that there was clearly a lack of diversity and even very few non-professional members to make any contribution.

The American Conservation Movement

To understand how it has come to be that legislative boards dealing with environmental concerns have come to exclude minority representation from their proceedings one must first look at the origins of the environmental movement in United States. The mainstream environmental movement emerged from the conservation movement. Originally, conservationism was concerned with protecting so called “natural” or “wilderness” spaces (Lao Rhodes, 2003, p.14). These places are generally far removed from urban communities and therefore largely exempt from any social issues. The inaccessibility of these areas also meant that only those who could afford to visit and study these places were to comprise this movement. The reality was that those who were able to do so were mainly white, affluent males. Even to this day the movement is primarily Caucasian and to a large extent unconcerned with issues of social justice (Lao Rhodes, 2003). According to Donald Snow of the conservation Fund, in a survey on the challenge to the leadership of the environmental movement (Lao Rhodes, 2003):

Practically none of the mainstream environmental groups in the United States—regardless of location, scope or size—works effectively with or deliberately tries to include people of colour, the rural poor, the politically and economically
The leadership of the environmental movement stands as an obdurate white-male island in the middle of the workforce increasingly populated by women and people of colour. This is a most peculiar condition for a movement that is so firmly rooted in the tradition of American social change (p.31).

Snow makes an excellent point that the conservation movement that was originally so concerned with changing American perceptions on the importance of protecting forests and animals from destruction has ignored their failure to respond to the need to change American perception on the inclusion of minority groups from the workforce. What is more is that this trend is not only present at the level of non-governmental (NGO) organization; there is also a lack of minority representation in the government environmental departments. This is particularly the case at the federal level in such institutions as the Environmental Protection Agency (EPA) and the departments of Energy, Agriculture and the Interior (Lao Rhodes, 2003). Not only are minorities absent from these ranks but also issues of race and ethnicity and social issues related to them are missing from recent natural resource and environmental agendas.

Warren County, North Carolina, 1982

The first “textbook case” of environmental racism spanned several decades and involved all the elements of an obvious case of discrimination with respect to environmental planning and remediation. The community at stake consisted of a primarily African American community with seemingly very little political power; furthermore they were the recipients of quite undesirable
and health-hazardous chemical waste and their case was not remediated for quite some time. Until the turn of this century, the primarily African American residents of Afton, Warren County in North Carolina had been living adjacent to a 142-acre PCB waste disposal site. The situation began in 1982 with the mysterious illegal dumping of PCB-laced soil along roadways in North Carolina; the perpetrators, unknown at the time, were referred to as the “midnight dumpers” (Bullard, 2005, p.38). The state discovered the waste and eventually decided to relocate and deposit it in a state-owned landfill in Afton. Of course, this decision was met with justified complaints from the community; the residents did not want and could not afford to move their homes. The concern was so severe because PCBs are highly toxic: they are persistent and bioaccumulate in human tissue; they are also known as highly likely human carcinogens causing developmental problems and hormone disruption (Bullard, 2005). Furthermore, the cheap landfill deposit was truly a temporary solution to dispose of the waste since the PCBs were able to leach into the groundwater and contaminate the potable well-water. The residents at first strived to have a more long-term, safe solution; unfortunately their pleas were not heard receptively and the state resorted to the inexpensive and temporary solution—landfilling—instead. Interestingly, Warren County is mostly black but also mostly poor and ultimately politically powerless (Bullard, 2005).

It was not until almost twenty years later that the citizens of Warren County were eventually able to pressure the government for a more permanent solution. After much lobbying and pressure by community activists, detoxification work on the dump began in 2001 and lasted until December 2003 (Bullard, 2005). The Warren County EJ leaders and their allies must be recognized for their perseverance and for their cause; however, at the same time justice will not be complete until the residents of Warren County receive a formal apology and financial
reparations. Around the world, environmental racism is defined as a violation of human rights; under traditional human rights laws it is expected of governments that practice racial discrimination to acknowledge and end it and also to compensate its victims (Bullard, 2005).

**Environmental Justice Progress**

Progress has been made in the US in having EJ first recognized and also in having it implemented into mainstream political framework. According to Pastor (2007), the progress on the policy front of EJ activists is shown in how a Presidential Executive Order issued in 1994 directed all federal agencies to “address, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies and activities on minority populations and low-income populations in the United States” (p.355). Furthermore, the federal Environmental Protection Agency (EPA) has used EJ as a “key rationale for prioritizing clean up and redevelopment of polluted ‘brownfields’ sites in minority communities” (Pastor, 2007, p.355). The implementation of EJ into these mainstream political frameworks represents a significant contribution to the EJ movement in the US.

**II—The Canadian Context**

*The problem [of environmental racism] 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 of either urban or rural African Americans, or is it true of American Indian people*

--Laura Westra, 1999.
The literature pertaining to environmental racism in Canada appears to fall under three broad categories: historical minority communities which emerged from slave society (i.e. Africville, Nova Scotia); “racialization” and the expressions of “multiculturalism” in Canada’s urban centers; and conflict over land-claims, treaty rights and sovereignty issues concerning First Nations. In the case of this first category, the conflict over the placement of a municipal landfill in the black community of Africville has been attributed to historical processes of racism and colonialism. This formerly independent community experienced the placement of much of Halifax’s waste in their “backyards” and the eventual relocation of their community. In the words of Gosine and Teelucksingh (2008):

In this sense, the environmental racism experienced by Africville residents and the racism inherent in the eventual dislocation of Africville are not isolated events that affect an isolated community; rather, they epitomize an ongoing Canadian process of “othering” and spatial control...Environmental racism is precisely the convergence of undesirable people together with undesirable land uses (p.45).

The second category of Canadian ER literature pertains to racialization and the subtle consequences of multiculturalism in urban centers. Much of the discourse related to these concepts is based on the premise that environmental racism does in fact exist in Canadian cities, but that it is less clearly defined and less easily investigated than in the US, on the basis of “ideological discourse”. According to Gosine & Teelucksingh (2008), “In Canada, the racialization of people who reside in particular low-income communities is not as obvious as American-style segregation and racialization; Canadian-style racialization is hidden under layers of ideology and discourse” (p.50). While comprehensive studies in each of these previous two categories areas could be made, the goal of this study is to focus on ER with respect to First
Nations (the third category) in a conscious effort not to lump different groups and jurisdictional issues together under the same methods of analysis. The scope is further limited to First Nations in Ontario, as each Canadian province has jurisdictional provisions that interact differently with FN federal policy. Saskatchewan, for example, has different policy for handling First Nation water quality issues than other provinces in Canada.

**First Nations and Racism in Canada**

Racism has been a part of Canada’s history since as early as the first interactions of European colonizers with First Nations members. Land was seized from these communities and there was clearly a lack of respect and also a lack of recognition of their rights to the land. According to Gosine and Teelucksingh (2008), “The very processes by which land was seized and settled were justified by racist ideologies that cast indigenous peoples as inferior savages and invading white colonists as civilizing agents” (p.36). The colonizers contended that they were bringing order to these people for their own well-being; there was little, if any, respect for their traditions and culture and for their existing form of governance. Unfortunately, the gradual dilution of their way of life has continued to this day. Native lands were seized and there were great efforts put forth to assimilate indigenous people into the colonial Anglo/Franco social frameworks (Gosine & Teelucksingh, 2008). The Indian Act of 1867 which remains law to this day (albeit in a revised form) was the primary piece of legislation bringing authority over First Nation people. The act established who was considered “Indian” and served to assimilate them using such strategies as the residential school programs (Gosine & Teelucksingh, 2008). In studying cases of ER against Canadian First Nations people it is interesting to note that they are
inextricably connected—and cannot be separated from—issues of land claims and other direct agreements with the government. According to Westra (1999): “The problems [of environmental racism] acquires a new face when it affects the aboriginal peoples 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 of either urban or rural African Americans, nor is it true of American Indian people” (p.103).

First Nation Case Studies: Justification for Environmental Racism Analysis

Cases such as the Kashechewan water quality crisis and the Aamjiwnaang chemical exposure in the Chemical Valley appear to be incidences of environmental racism as they involve minority groups subjected to environmental burdens directly in their communities. Explaining how these problems came to be in the first place necessitates an understanding of the lack of environmental protection experienced by First Nation communities living in Canada as a whole. While non-native urban communities are protected by legislation against chemicals and are also ensured access to safe drinking water, the same cannot be said for the remote First Nation reserves that often are the victims of exclusion from defined provincial and federal jurisdictions, and also of exclusion from planning and decision-making processes that affect their health and livelihood.

There is growing recognition that Indigenous peoples in Canada (and around the world for that matter) have come to bear a disproportionate share of environmental burdens compared to non-indigenous counterparts. More recently it has even been recognized that this pattern is an
expression of ER as it appears in the United States. According to Collins and Murtha (2010), “Aboriginal peoples in Canada are particularly affected by unsustainable forestry practices, climate change (resulting in serious disruption to arctic ecosystems), large-scale hydroelectric projects, low-level flight testing, destructive extractive projects, contaminated drinking water, indoor air pollution, and in some cases, industrial contamination” (p.961-2) Indeed we have witnessed exactly ‘contaminated drinking water’ and ‘industrial contamination’ with the Kashechewan and Aamjiwnaang peoples, respectively.

While in theory both the federal and provincial environmental statutes should be available to protect First Nation lands from environmental degradation, both have basically failed them. Essentially, “Our environmental law regime has failed to protect environmental integrity in Aboriginal territories and beyond” (Collins and Murtha, 2010, p.962-3). Many First Nation communities are found in the middle of competing political jurisdictions and often they are excluded from participation in environmental ideas and decision making processes (Borrows, 1997). The “racist and outdated Indian Act” (Borrows, 1997, p.419) is responsible for much of this obstruction to participation which has significantly hindered First Nation’s political powers. It basically accomplishes this by limiting the steps First Nation people could take to more directly deal with environmental problems. The federal government has made some progress in finding ways to increase FN participation in land-use decision-making processes; however, inclusion satisfactory to First Nation band members has not been achieved. According to Collins and Murtha (2010):

The situation has improved somewhat since the specific inclusion of Aboriginal interests in environmental assessment legislation both provincially and at the federal level. The federal government has made some efforts to enhance Aboriginal participation in environmental assessments involving their traditional lands and resources. At the policy level, environmental regulators have also increased efforts to integrate Aboriginal traditional knowledge into
environmental decision-making. However, neither traditional knowledge policy nor environmental assessment statutes enfranchise Aboriginal peoples (nor the public generally) in the final decision-making process. When the policy exercise or environmental assessment is complete, it is open to the government to decide, for example, that harm to Aboriginal hunting grounds is outweighed by the economic benefit of building a new road. Thus, environmental legislation and policy provide inadequate protection for Aboriginal environmental rights in Canada (p.963).

What is evident from this excerpt is that First Nations people are given minimal powers over their lands by the federal government; furthermore there has been a lack of successful mechanisms for them to deal effectively with their non-native neighbours. Unfortunately disempowerment experienced by these communities often results in political demonstrations which are poorly received by the authorities and are also mostly after-the-fact rather than preventative actions.

The Ontario provincial government has not proven any more effective or fair than the federal government in ensuring environmental protection of First Nation peoples. First Nations are often excluded from participation in decision making, and their Traditional Knowledge is not sufficiently incorporated in the planning process. Provincial governments such as that in Ontario often leave these communities feeling powerless over their own lands because the province does not make provision for a representation of their interests (Borrows, 1997). According to Borrows (1997), “These federalist structures organize, separate and allocate water and rocks in a manner which promotes unequal distributions of political influence; a legal geography of space is thus constructed which marginalizes Indigenous peoples in significant environmental decision making” (p.420). Similarly to planning boards in the United States that marginalize minorities from equal and meaningful participation, First Nations in Ontario and the rest of Canada have been excluded from contributing their input. In fact, Ontario’s Planning Act does not require
official notification to, or any participation from, First Nation peoples in the planning process; this legislation and its policy framework (whether intentionally or otherwise) seems to minimize the existence of First Nation communities (Borrows, 1997). From a provincial perspective reserves are not ‘conventional municipalities’, nor do they even have the same recognition that concerned citizens groups would be given in the environmental planning process (Borrows, 1997). Borrows (1997) speculates that provinces are very reluctant to assume duties dealing with First Nations because of the high financial cost associated with such action. Far too often the provincial government considers all issues related to First Nation communities and reserves to be solely the responsibility of the federal government. While in principle this may be the case, overlap in certain jurisdictional provisions results in a lack of accountability, often from both governments. The two following case studies of the Aamjiwnaang and Kashechewan First Nations illustrate many of these jurisdictional issues and how they contribute to processes of ER as well.
III—Ontario Case Studies

Case Study 1: The Kashechewan Water Quality Crisis

Figure 2: Kashechewan First Nation Reserve, Ontario

Water is a sacred thing. This is reflected in many traditional beliefs, values and practices.

--Elder Ann Wilson, n.d.
Kashechewan is a First Nation reserve in Canada that (like many others) is ripe with social and environmental problems and receives much less attention and social aid than most urban and non-native communities. The Cree community of this reserve was particularly affected in 2005 as the consequence of its exposure to contaminated drinking water that had been tainted by harmful *e.coli* bacteria. One of the major causes of contamination was the location of the water-treatment intake pipe downstream from a sewage lagoon (Dhillon and Young, 2010). This problem was exacerbated by insufficient training and maintenance which, according to the Senate of Canada (2007), is largely responsible for the repeated contamination (Dhillon and Young, 2010). Bacteria levels in the water necessitated increased chlorination; unfortunately the chlorine count reached beyond-healthy levels and resulted in adverse skin irritations (Dhillon and Young, 2010). Eventually the *Ontario provincial government* evacuated over 800 residents. These evacuees presented a host of very serious medical problems including scabies, parasitic diseases and impetigo associated with *e.coli*, as well as the skin conditions associated with chlorine exposure. Notably, this problem was avoidable; the reserve had been under a boil water advisory for 2 years and surprisingly the water system had been documented by Health Canada. In fact, a 2003 report issued by the Ontario Clean Water Agency had forewarned that the situation was a “Walkerton-in-waiting” (Gosine & Teelucksingh, 2008, p.38). Ironically, despite the fact that the problem was well documented, neither the federal nor provincial governments took any significant action; the affected communities were left with a boil-water advisory issued by the council band members. This problem which was avoidable and required only minor prevention measures resulted in the need for the relocation of the entire Kashechewan community which comes at a great expense, including significant social impacts to these people (Dhillon and Young, 2010).
According to Gosine and Teelucksingh (2008), this case meets the requirements to be accurately considered a case of ER. It meets the components of Benjamin Chavis’ definition: it is “racial discrimination in the enforcement of regulations and laws...racial discrimination in the official sanctioning of the life-threatening presences of poisons and pollutants in communities of colour; the exclusion of racialized groups from participating in managing and making decisions about their environments; and an extension of...institutional racism” (Checker, 2005, p.14).

Technically, federal government is responsible for ensuring proper drinking water for the First Nations communities—facilities, proper training and maintenance are all part of this mandate. Failing to properly train the personnel and also denying the reserve’s request to relocate further upstream from the source of contamination (which was later identified as a sewage lagoon) were both failures of the federal government to properly carry out their responsibilities.

The unequal treatment of non-Native and First Nation people living in Ontario in terms of responding to issues of water quality further illustrates the case of ER that took place in the Kashechewan community. In comparing this problem with one that happened five years earlier in Walkerton such inequalities become apparent. In 2000 the non-Native community of Walkerton, Ontario witnessed the death of seven people after the local drinking water supply had been contaminated with harmful \textit{e.coli} bacteria. Following the tragedy an inquiry was held in order to investigate water quality across Ontario. The inquiry lasted 2 years and included community consultations (McGregor, 2009). The commissioner responsible for the inquiry, Dennis O’Connor, released a report containing 121 recommendations; importantly, some of which concerned First Nation people (McGregor, 2009). The report highlighted that “First Nations face serious problems in relation to water quality and jurisdictional issues among federal, provincial, and First Nation governments present particular challenges in attempting to
resolve such issues” (McGregor, 2009, p.34). Other issues raised pointed out that “colonial history and ongoing institutional racism make resolving First Nations water quality concerns even more complex” (McGregor, 2009, p.35). Despite the inquiry and these recommendations following Walkerton, the drinking water crisis took place in the Kashechewan community in 2005. It is somewhat ironic that despite the apparent recognition of the “ongoing institutional racism,” this problem still took place.

As is the situation in many First Nation communities, ambiguity in jurisdiction between the provincial and federal governments over matters such as water quality results in significant environmental and health problems on reserves. Water and wastewater operations are officially the responsibility of provincial and territorial governments; however, such legislation does not apply to on-reserve First Nation communities (Simeone, 2010). According to section 91(24) of the Constitution Act, 1867, the federal government is granted exclusive jurisdiction over “Indians and lands reserved for the Indians” (Simeone, 2010, p.1). Essentially, the federal government holds responsibility for managing drinking water on reserves. Indian and Northern Affairs Canada is mandated to financially support the costs of constructing and maintaining their water systems; Health Canada supports the safety monitoring and testing; however, First Nations themselves are ultimately responsible for the actual construction and daily management of these systems (Kyle, 2006) (see Figure 3). Unfortunately, as in the case of the Kashechewan water crisis, the federal government does not always carry out their responsibilities in an effective manner. According to public health inspectors and environmental public health professionals, “There is no overarching federal Public Health Act that gives the First Nation and Inuit Health branch of Health Canada the jurisdiction over monitoring and regulating the water quality on Canada’s more than 2,400 reserves” (Kyle, 2006, p.B2). Though there are some exceptions, this
appears to be an ongoing problem for all reserves across Canada. The one exception occurs in Saskatchewan; the reserves here are the only ones in Canada that have complete control over the delivery and monitoring services of drinking water (Kyle, 2006). In the rest of Canada there is a lack of consistency in terms of water testing and training of water treatment plant operators.

**Figure 3: Indian Act, s.81(1)**

(1) The council of a band may make by-laws not inconsistent with this Act or with any regulation made by the Governor in Council or the Minister, for any or all of the following purposes, namely,

a) to provide for the health of residents on the reserve and to prevent the spreading of contagious diseases.

b) [for] the construction of the use of public wells, cisterns, reservoirs and other water supplies.

Source: Department of Justice, 2011.

The inconsistencies in water quality management in First Nation reserves are no mystery and have in fact been understood for quite some time. While it would be unfair to say that the federal government has made no effort to address these problems, they have not yet come up with or implemented any meaningful solutions. According to Tim Bonish, regional environmental health officer with First Nations and Inuit health, “Gaps exist” between the provincial jurisdiction over water quality regulation and treatment and its enforcement on reserves (Kyle, 2006, p.B7). In reference to a 2005 Auditor General’s report, Bonish also highlighted that members of First
Nations communities do not receive the same quality of protection as people not living on reserves; he stated, “There are no laws and regulations governing the provision of drinking water in First Nation communities, unlike [in] other communities” (Kyle, 2006, p.B2). The same report also claims there is no law requiring drinking water quality on First Nation reserves be monitored; Health Canada states that it is not “legally empowered” to ensure that all the required tests are satisfied to ensure the quality of drinking water on reserves (Kyle, 2006).

Experts on drinking water management attribute the gaps in water quality control on reserves to policies which keep some parties with vested interest (i.e. First Nations members) from taking initiative and give less affected parties (i.e. the federal government) more power. According to Simeone (2010), in 2006 the Expert Panel on Safe Drinking Water for First Nations suggested the following:

The current situation can be described as consisting of a number of parties whose roles and responsibilities are bound by government policies and contribution agreements. The arrangements are neither comprehensive nor easily deciphered; most critically, there are numerous gaps and a lack of uniform standards, as well as enforcement and accountability mechanisms (p.2).

In summary, the water quality crisis on the Kashechewan reserve that compromised the health of many people is largely attributable to gaps or inconsistencies between federal legislation over reserves and provincial legislation over water quality management. First Nation people living on reserves do not receive the same level of attention when it comes to drinking water as Canadians living off-reserve. This unequal treatment resulting in serious health effects justifies claims of environmental racism towards the Kashechewan people. Much as minority communities in the United States have been subject to ER, this community was compromised by unclear
environmental protection policies (specifically in the form of drinking-water management), the inability to initiate government remediation, and consequently of serious adverse health effects.

**Case Study 2: Aamjiwnaang First Nations in the ‘Chemical Valley’**

**Figure 4:** Aamjiwnaang First Nation Reserve near Sarnia, Ontario

(Source: Luginaah et al., 2010).
My daughter used to go to that daycare centre . . . and she also went to the prekindergarten, which is right near one of the chemical plants . . . then she began to have respiratory problems . . . the kids that were at the day care centre all have respiratory problems . . . they have puffers . . . and my daughter sometimes gets these panic attacks because of her respiratory problems. (Jack)—A member of the Aamjiwnaang First Nation, 2010.

The Aamjiwnaang First Nation reserve located south of Sarnia, Ontario is found in an area which has come to be known as Canada’s “Chemical Valley” (CV). This area is home to a dense concentration of industrial factories that have resulted in high levels of air and water pollution and subsequently high levels of chemical exposure of the area’s inhabitants. Located in the middle of this heavily polluted area, the Aamjiwnaang community has been suffering from exposure to chemicals for many years and is now displaying a disturbing range of adverse health effects that have been directly linked to this pollution. Claims of ER can be made in this case on the grounds that the federal government has failed to respond appropriately to the deteriorating environmental and health conditions of the people on the reserve.

The Chemical Valley is home to 850 band members of the Aamjiwnaang First Nation; it is also home to Canada’s greatest concentration of petrochemical industries and associated air and water pollution (Dhillon and Young, 2010). Companies with facilities here include Bayer Inc., Dow Chemical Canada Inc., Shell Canada, Imperial Oil (ESSO), and NOVA chemicals. The result of this industrial concentration is roughly 10 tons of pollutants in the adjacent St. Clair River on account of roughly 100 chemical spills per year (Dhillon and Young, 2010); this figure does not include the substantial amount of pesticides and fertilizers that are also released into the water via agricultural runoff (Mascarenhas, 2007). The water here is now contaminated with various toxins, and that should not be considered a safe source of drinking water for anyone;
however, the St. Clair River provides drinking water to the Aamjiwnaang and Walpole Island First Nations. In addition to the poor water quality, the air quality is not safe. In 2005 the National Pollutant Release Inventory (NPRI) recorded a release from the industrial facilities in the CV of 5.7 million kilograms of ‘Toxic Air Pollutants’—pollutants that have been linked to reproductive and developmental disorders and cancer among humans (Dhillon and Young, 2010). Alarmingly the quantity of emissions released here is greater than in any other community in Ontario and higher than the entire provinces of Manitoba, New Brunswick and Saskatchewan (Dhillon and Young, 2010). The Aamjiwnaang Reserve located here has been designated as an Area of Concern (AOC) because of the high levels of exposure to air and water pollutants causing potential adverse health effects (Luginaah et al., 2010). AOCs are designated geographic areas within the Great Lakes Basin that show severe levels of environmental degradation. The exposure of these people in the AOC through their contaminated drinking water and air has resulted in significant incidences of birth defects, illness and disease. The evidence of environmental degradation here is not sparse and yet the Canadian government has largely ignored the need for serious action and remediation.

Constant direct and indirect exposure to these pollutants via drinking water and inhalation has resulted in widespread serious and adverse health effects to the Aamjiwnaang First Nation community. Studies and surveys conducted in 2006 and 2007 revealed significant health effects as a result of the air pollution: 40% of band members needed an inhaler; 17% of adults and 22% of children had asthma; and there are a declining number of male children when compared to females (Dhillon and Young, 2010). A 2005 study confirmed this last observation in finding that indeed the proportion of male births has been decreasing from the 1990s to 2003. There are also a number of more indirect (but significant) aspects to the people living on the reserve; hunting,
fishing, medicine gathering and ceremonial activities have been hindered by the pollution (Dhillon and Young, 2010).

To understand the injustice that has befallen the Aamjiwnaang Reserve as a case of ER we must understand that the community was living in this area and subsisting on the St. Clair River well before the industrial facilities were built. According to Dhillon and Young (2010), “Indeed, environmental injustices of these magnitudes represent a legacy of racist practices experienced by First Nation people” (p.25). The remoteness of many First Nation communities in combination with the unique jurisdictional and governmental issues associated with them has resulted in a problem whereby responsibility and accountability for the quality of their health and environment remains ambiguous (Dhillon and Young, 2010). Members of the Aamjiwnaang community have tried to voice their concerns for years and yet they seem to have made little progress in achieving any form of sufficient regulation of these polluting facilities.

Canadian Aboriginal law includes certain services which the federal government is expected to provide for “Aboriginal Persons” (Woodward, 2010). According to Woodward (2010), the Environmental Health Program is:

A community based government program aimed at on-reserve communities south of 60 degrees latitude. Its goal is to protect and improve the health of these communities through the reduction of health risks, injuries, or death. The program is intended to raise awareness of environmental public health hazards such as water, food, and vector-borne illnesses (19.27, vol.2).

Also according to Woodward (2010), the aim of the Environmental Health Research Program is:

To conduct laboratory and field studies, research, monitoring and surveillance, and predictive modelling efforts in the context of risks posed by environmental contaminants to First Nations and Inuit Communities (19.27, vol.2).
Evidently there are measures in place to monitor and engage the threats posed by environmental contaminants in First Nation communities; however the actual effectiveness and implementation of these initiatives is not always adequate. In the case of the Aamjiwnaang First Nation, the Environmental Health Program did not effectively “protect and improve the health of these communities through the reduction of health risks”, as its mandate suggests.

How did the Aamjiwnaang FN become so exposed to malignant chemical contaminants in the first place? Was it complete “luck-of-the-draw” on the part of where their reserve just so happened to be, or is their environmental protection substandard to that of non-First Nation Ontarians? According to Woodward (2010):

Pollution and waste disposal on reserves is a matter of federal jurisdiction, since it affects the use of land. As contrasted with lands under provincial jurisdiction governed by extensive statutory schemes, the protection of Indian reserves from pollution is still left primarily to remedies available under common law. Some bands have passed pollution control by-laws (i.e. Mowachaht by-law No.1, 1977), under s.81(1)(a) of the Indian Act (health); but there are no court cases to test the effectiveness of such enactments (274.9).

Looking back even further than the current state of the health and environment in this reserve, how did it come to be that the Chemical Valley emerged in such proximity to the Aamjiwnaang location? The exact cause of the development of these facilities here cannot be directly attributable to legislation. Renowned First Nation activist Bob Lovelace (2011) responded to this very question which was posed to him for the purposes of this study in March 2011 at a Community Environmental Justice Workshop in Kingston, ON. He stated that it may very well have been “luck-of-the-draw”. That is, they (the First Nation) happened to be there and then the industrial facilities happened to be built there as well. Furthermore, the non-First Nation town of Sarnia is located just north of the Aamjiwnaang reserve, so how can the location of the CV be considered racist? Regardless of whether the origin of the threat to this First Nation was
inherently racist (i.e. the intentional siting of polluting facilities adjacent to this reserve), it is evident that the level of environmental protection and subsequent health care being afforded to these people is substandard. Now that environmental and health conditions on the reserve are deteriorating, the lack of accountability and effective remediation represents a failure on the part of the federal government to carry out their responsibilities.

Where do we go from here?

The Far North Act and its contribution to environmental racism in northern Ontario

[I]t’s almost like the Province supersedes the treaty and they get to go ahead and do what they want to do” and this Bill “I find it really odd...who spoke on behalf of First Nations? Nobody spoke on behalf of First Nations...I couldn’t do that to another human person, to suppress that human person, tell them that you’re worthless, I’m superior to you, I can’t do that to anybody...these people could and I believe it...even today it’s happening...that’s my issue with Bill 191...I don’t really believe in what they’re doing, it’s all predevelopment even though they say they’re going to protect an area, but they have a clause in the protected area, they take it to develop within the area and there is no real talk about partnerships only participation so you look at those factors, you...don’t have anything in your hands to say no to any development—Hansard, August 13, 2009.

Planning policies in Ontario have a long history of creating frustration within First Nation communities. A number of specific laws from the Indian Act, such as section 35, and also from planning policy in the province have arguably created a situation in which many of these communities are unsatisfied with the outcomes of land use. The case studies presented previously have outlined just some examples of the consequences of federal and provincial First Nation policy at the community level. Going forward with First Nation ER advocacy in Ontario, analysis of upcoming legislation reveals potential for conflict with respect to
decisions over planning. The Far North Act, Bill 191, which was introduced in 2009 by the provincial government, will have significant implications for the future of planning in northern Ontario. The many First Nation settlements within this area will be affected by this bill. There has been controversy over the bill regarding the powers it affords to both government and First Nation people, and in the balance of this power. Yet-to-be resolved recommendations from First Nation band council members, assumptions and shortcomings made by the planning process itself regarding First Nation tradition, and insufficient consideration on the part of the provincial government with respect to First Nation opposition to the bill are all contributing factors to ER in northern Ontario.

The purpose of Bill 191 is as follows:

**Figure 5: Purpose of Bill 191, The Far North Act.**

<table>
<thead>
<tr>
<th>Purpose of the Act</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. The purpose of this Act is to provide for community based land use planning in the Far North that,</td>
</tr>
<tr>
<td>(a) sets out a joint planning process between the First Nations and Ontario;</td>
</tr>
<tr>
<td>(b) supports the environmental, social and economic objectives for land use planning for the peoples of Ontario that are set out in section 5; and</td>
</tr>
<tr>
<td>(c) is done in a manner that is consistent with the recognition and affirmation of existing Aboriginal and treaty rights in section 35 of the Constitution Act, 1982, including the duty to consult. 2010, c. 18, s. 1.</td>
</tr>
</tbody>
</table>


The stated aim of the bill which was passed in September 2010 is essentially to create planning processes in northern Ontario which foster economic growth which is compatible and also beneficial to First Nations. The legislation protects 225,000 square kilometres in northern Ontario (see figure 6) and leaves the remainder open for development (Talaga, 2010). According to Natural Resource minister Linda Jeffrey, “Bill 191 is key to establishing rules to manage development in the resource-rich region known as the Ring of Fire” (Talaga,
Furthermore, the provincial Liberals who enacted the bill contend that it represents a “first in Ontario history”, because it mandate’s First Nation approval of land-use plans (Talaga, 2010). Of credit to the province is its recognition of the need to institute “joint planning” (Ontario Ministry of Attorney General, 2010) with First Nations and also of the importance of consultation. Despite the aim of the bill, however, it does present limitations in its ineffective implementation of First Nation interests.

Figure 6: Far North Act boundaries. “Far North Ontario” region indicates area under jurisdiction of Bill 191.

While it would be inaccurate to say that all First Nation communities and groups oppose Bill 191, there is extensive opposition to it. A number of First Nation band council members and leaders of reserves have articulated concerns with certain specifics of the Act, as well as concerns with the failure of the Liberal government to implement their amendment...
recommendations. For example, according to Nishnawbe Aski Nation (NAN) Grand Chief Stan Beardy, tribal councils and NAN have formally presented concerns and also recommendations for amendments for Bill 191 to the Ontario government; to date “these recommendations are not reflected in the current amendments” (Wawatay News, 2010, line 6). The Mushkegowuk council, a body representing the interests of the Mushkegowuk Cree in the area around the James Bay Coast delivered their recommendations to the province (see figure 7). In their letter to Premier McGuinty they expressed specific recommendations—which have yet to be implemented. In response to the failure of McGuinty to implement their suggestions the council expressed how “[They] are concerned Bill 191 does not adequately reflect [his] vision and does not address [their] concerns” (Louttit et al., 2010, line 8).

**Figure 7**: Mushkegowuk Council letter to Premier McGuinty.

Specifically, we are looking for the following amendments to Bill 191:

- Room needs to be made for greater co-operation among First Nations. For example, Mushkegowuk First Nations have agreed to develop a collective approach to planning that is community-based but shares common resources and information among the First Nations;

- The planning area should respect watersheds and traditional homelands. Bill 191 in its current form splits the Mushkegowuk territory, only allowing participation of the northern part;

- An adequate planning fund should be established that is administered jointly by First Nations and the province to allow for greater transparency;

- A joint body representing the province and First Nations should be established to guide planning for the Mushkegowuk/James Bay area. Other bodies could represent other parts of the Far North. This would respect both First Nation affiliations and ecological regions;

- First Nations should have the responsibility to select and manage protected areas and other planning designations;

- Staking and new exploration activities must be paused until we have had an opportunity to complete land use plans, which would outline where these activities could take place; and

- Land use plans need to be agreed to by both First Nations and the province. Likewise, it stands to reason both parties should need to agree to future changes in plans.

Source: Louttit et al. 2010, *letter to Premier McGuinty*. 
The concerns of the Mushkegowuk council do not represent the views of all First Nations in Ontario; however, a large number of them share similar perspectives and policy recommendations. Importantly, the Mushkegowuk council highlights that certain sections of the bill fail to recognize First Nation traditional territories; instead the bill appears to be more in favour of recognizing boundaries established mainly through provincial legislation. According to the council, “The planning area should respect watersheds and traditional homelands. Bill 191 in its current form splits the Mushkegowuk territory, only allowing participation of the northern part” (Louttit et al, 2010; see figure 7, recommendation #2). According to Howard Hampton, Kenora-Rainy River MPP, “McGuinty needs to consult First Nations before making decisions on what to do with their lands. This is a complete lack of respect for the First Nation treaties. It is a violation of their rights” (Wawatay News, 2010, para. 11). Hampton also claims that all First Nations across Ontario oppose Bill 191; this point can be debated, but clearly there is wide opposition to the bill.

According to Youden (2010), Bill 191 outlines the process for the development and amendment of community-based-land-use-plans (CBLUPs). The bill is intended to promote a dynamic between the province and First Nations that is able to utilize “consensus-based decision-making” for land and resource planning (Youden, 2010, 63). CBLUPs are emerging as a way for First Nation communities to have greater influence over the development of their lands. CBLUPs refer to planning based on community involvement in every step of the process; in general it is supposed to reflect social, cultural and economic interests while incorporating both scientific and traditional knowledge (Leroux et al., 2007). Inherent limitations of the planning process, and specifically of consensus-based decision-making with First Nation communities, is the assumption of sufficient access to—and understanding of—information.
According to Lane (2006), “The capacity of indigenous groups to engage effectively in a range of planning activities is crucial to achieving land justice” (p.385). The consensus-based approach assumes that those involved in the process are fully informed and educated about the issue. The planning process has received scrutiny for its assumption of full information on the planning projects themselves, and also for ‘assumption and acceptance of the political and economic status quo’ (Youden, 2010, p.73). Lane (2006) has outlined several barriers to participation in the planning process with respect to consensus-based decision-making: “language and cultural barriers; geographic isolation; a lack of available resources; consultation fatigue; cynicism about whether consultative efforts are genuine and a lack of familiarity with mainstream planning and decision-making processes” (p. 386). The reliance of Bill 191 upon the mainstream planning process therefore poses a problem when it is imposed upon First Nations.

Another shortcoming of Bill 191 is how it takes advantage of constitutional clauses to essentially overrule any final decisions made or “consensus” reached with a First Nation community, such as in a CBLUP. According to the Purpose of the Act, section c (Ontario Ministry of Ontario, 2010), the intent is to ensure that CBLUP “is done in a manner that is consistent with the recognition and affirmation of existing Aboriginal and treaty rights in section 35 of the Constitution Act, 1982, including the duty to consult” (2010, c.18, s.1). Importantly, the “duty to consult” does not necessarily imply a duty to carry out the considerations from the consultation. As Lovelace (2011) explains, there may well be a rule that First Nations must be consulted, but this does give them the power to veto—or in other words the ability to say “no”. Furthermore, the relationship between First Nations and the state through the treaty process can, and has, been used against their interests.
For example, “Aboriginal title”, as Natcher (2001) explains:

[Is] A right to exclusive use and occupation of a specific geographical area. It is a proprietary right held communally and cannot be transferred or alienated by anyone but the federal government. Most importantly, however, it is a right to decide to what land uses the land can be put, including the ability to restrict activities that would limit the opportunity to continue those activities that would limit the opportunity to continue those activities that made those land Aboriginal lands in the first place...the court also found that Aboriginal title would be justifiable infringed upon by the government for the purposes of land settlement, economic development, environmental protection, although in such cases financial compensation may be required as part of the justification for infringement (p.114-115).

So then is Bill 191 opposed by all or are some First Nation communities and stakeholders in favour of its propositions and potential? As Natcher (2001) indicates, financial compensation is often a reason why First Nation communities may support a development. In certain instances, therefore, developments passed under Bill 191 will be supported in the area. Whether or not financial compensation is a sufficient means of accountability on the part of the province will remain up for debate. Nevertheless, there is wide First Nation opposition to the bill in northern Ontario. A very controversial element of the bill rests on its ability to have the final say, or ultimately overrule any decision reached by First Nations. According to Youden (2010), the following testimony provides insight into this issue from the First Nation perspective:

[T]he government has the ultimate power, with the explicit discretion under the Bill, to override any land-use plan and permits a new mine to be developed if it is in the economic and social interest of the Province to do so. I take this as an insult. This is essentially saying that my community could prepare a land-use plan, identify an area of land which, for whatever reason—whether cultural, traditional or environmental—is off limits for mining development and the government has the authority to basically say that there are economic and social interest of the Province which are more important than my community’s interest and proceed to permit the mine (Hansard, 13-Aug-2009, 932).
There is evidently much objection to the bill from First Nation communities and interest groups. The arguments as presented above illustrate significant problems embedded within The Far North Act: the failure of the provincial government to effectively amend the bill based on First Nation recommendations; insufficient consideration of First Nation traditional territory; and the failure to recognize and remediate the limitations of the planning process which compromises First Nation participation. With these considerations in mind it would appear very clear that Bill 191 is unfair towards indigenous peoples in Ontario, but does it carry criteria to be considered a contributing factor towards environmental racism? Previously mentioned in Section 2, The Canadian Context, according to Westra (1999) “The problem [of environmental racism] acquires a new face when it affects the aboriginal peoples of Canada, as in their case, questions about environmental racism cannot be separated from issues of sovereignty and treaty rights” (p.103). The outcome of land-use and planning processes can significantly alter the environment—the exact specifics of how is not the intention of this paper. Nevertheless, as articulated by Natcher (2001), the court found that Aboriginal title would be justifiably infringed upon by the government for the purposes of land settlement, economic development, and—importantly—environmental protection. Possible outcomes, such as proposed mining operations, will have negative effects upon both the environmental and human health of surrounding lands and people, respectively. The Chemical Valley is just one example of how industrial operations have already affected the livelihood of First Nation community.
IV—Results

1) Does environmental racism take place in Canada, and if so what institutional processes are responsible for it?

Yes, environmental racism does take place in Canada, since it holds significant implications for First Nation communities. There is substantial evidence that ER, as the concept is defined in the United States does take place in the context of First Nations (Checker, 2005):

racial discrimination in environmental policy-making, enforcement of regulations and laws, the deliberate targeting of communities of colour for toxic waste disposal and the siting of polluting industries. It is racial discrimination in the official sanctioning of the life-threatening presence of poisons and pollutants in communities of colour. And, it is the racial discrimination in the history of excluding people of colour from the mainstream environmental groups, decision-making boards, commission, and regulatory bodies (14).

The answer to the second focus question will further investigate the criteria for considerations of ER at the institutional level, on the basis of this definition. The case studies from the Aamjiwnaang and Kashechewan First Nations, as well as analysis of the Far North Act revealed four over-arching institutional processes or policies which create conditions for ER amongst First Nations (see Table 3)

Table 3: Institutional processes or policies contributing to environmental racism amongst First Nations in Canada.

<table>
<thead>
<tr>
<th></th>
<th>Institutional Process or Policy</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Bills: <em>Indian Act, Far North Act</em></td>
</tr>
<tr>
<td>2</td>
<td>Competing federal and provincial jurisdictions/responsibilities</td>
</tr>
<tr>
<td>3</td>
<td>Limitations of land-use planning regarding equal opportunity and consideration</td>
</tr>
</tbody>
</table>
2) Are First Nation populations affected by environmental racism, and if so, how?

Environmental racism holds significant implications in Canada’s First Nation communities. In their case processes of environmental racism cannot be separated from issues directly related to land claims and other institutional processes (e.g. the Indian Act). Racism has been taking place since as long as their first interactions with European colonialists. In looking at how First Nation people came to live on reserves separately from the rest of Canada and consequently how in many instances they came to be plagued by environmental “bads” it is fair to say that ER does in fact play a part.

It is not necessarily a group of individuals with an explicit racist intent against First Nation people that deliberately cause them to be unequally treated in environmental services and protection; however, this does not negate or absolve any allegations of racism. What is to blame is the institutional framework that has left First Nation peoples having limited control over their land. There is not enough importance placed on including their input, such as Traditional Ecological Knowledge, and of incorporating their traditional territories into planning processes. By way of exclusion from participation First Nations people in Canada experience discrimination based on race which classifies them apart from other citizens. Furthermore, there is often ambiguity over federal and provincial jurisdiction. The federal government is in principle responsible for ensuring the welfare of First Nation reserves; however, as in the case of the Kashechewan water quality crisis the provincial government eventually took action. In other cases the provincial government may avoid engagement of First Nation issues in order to avoid costs which are not within their jurisdiction. Clearly there are jurisdictional tensions and conflict.
The study revealed five common factors affecting First Nations which could result from environmental racism—these are displayed in Table 4. Justification as processes of ER were made on the basis of the metrics established in the outset of the study, from Table 2.

**Table 4:** Factors affecting First Nations which are attributable to environmental racism

<table>
<thead>
<tr>
<th>Factor</th>
<th>Applicable Metric(s)</th>
<th>Specifics</th>
<th>Attributable to Race and Institutional Process?</th>
<th>Environmental racism? (Y/N)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Water quality standards</td>
<td>Metric 1</td>
<td>Regulations/enforcement of drinking water standards</td>
<td>Yes: First Nation drinking water; Federal government responsibility</td>
<td>Yes</td>
</tr>
<tr>
<td>Pollution exposure</td>
<td>Metric 1</td>
<td>Environmental protection</td>
<td>Yes: “Protection of Indian reserves from pollution is still left primarily to remedies available under common law” (Woodward, 2010)</td>
<td>Yes</td>
</tr>
<tr>
<td>Remediation of health effects from environmental contaminants</td>
<td>Metric 1</td>
<td>Policy making (e.g. water quality and health remediation)</td>
<td>Yes: Ambiguous jurisdictional overlap for FN health care with respect to pollution exposure</td>
<td>Yes</td>
</tr>
<tr>
<td>Unequal participation in land-use planning</td>
<td>Metric 3</td>
<td>“Consensus-based decision-making”</td>
<td>Yes: Province has final say</td>
<td>Yes</td>
</tr>
<tr>
<td>Siting of polluting industries</td>
<td>Metric 2</td>
<td>e.g. Chemical Valley and Aamjiwnaang FN</td>
<td>No: Effects not only experienced by FN; Not directly attributable to planning processes</td>
<td>No</td>
</tr>
</tbody>
</table>

1. **Metric 1:** Environmental policy making, regulations and enforcement.

2. **Metric 2:** The siting of polluting industries/facilities in communities of colour.
3**Metric 3:** The exclusion of people of colour from the mainstream environmental groups, decision-making processes.

The study revealed that environmental racism in the classic form of the siting of polluting industries in communities of colour cannot be applied or justified in the cases presented. The location of resource extraction and other industrial projects within traditional First Nation territories is quite common; however this tends to be mainly due to the value of resources located here and not due to ER. According to Keeling and Sandlos (2009), “Mineral development is not easily reducible to a siting issue within an environmental justice framework. As any mine developer will tell you, mines are sited where viable ore deposits are found, not necessarily where pliant or disenfranchised communities are located.” (p.118). Keeling and Sandlos refer specifically to mining operations, but their observation seems to hold ground in other industrial operations in Canada, and also in the case of the location of the Chemical Valley within the Great Lakes region of Ontario. Ultimately, although ER as defined cannot be applied in the case of the siting industrial operations in First Nation traditional territory, it does not mean that other injustices do not persist.

3) **How do manifestations of this concept compare with those witnessed in the United States?**

From a historical context, the same concept of ER that was established in the US can most definitely be applied to the Canadian context; it is in its expressions and manifestations that it differs. Certain minority groups in Canada, as in the United States, are subject to a disproportionate share of environmental burdens based on race.
Let us again refer to Dr. Benjamin Chavis Jr.’s definition of environmental racism: “racial discrimination in environmental policy-making, enforcement of regulations and laws, the deliberate targeting of communities of colour for toxic waste disposal and the siting of polluting industries. It is racial discrimination in the official sanctioning of the life-threatening presence of poisons and pollutants in communities of colour. And, it is the racial discrimination in the history of excluding people of colour from the mainstream environmental groups, decision-making boards, commission, and regulatory bodies” (Checker, 2005, p.14). In reviewing this definition it appears as though many of these expressions of ER have been presented through the case studies of the Kashechewan and Aamjiwnaang reserves. As in the US it is possible to observe patterns where environmental burdens are observed, and where environmental services and protection are lacking. There have been studies pertaining to ER and EJ in Canada’s urban centers and amongst other minority communities. Unlike in the case of First Nations and African Americans, however, it is much more subtle and less directly attributable to race over socio-economic status. As Gosine and Teelucksingh explain (2008):

In Canada, the racialization of people who reside in particular low-income communities is not as obvious as American-style segregation and racialization; Canadian-style racialization of low-income communities is hidden under layers of ideology and discourse...Because environmental inequalities, like racialization, are hidden in hidden in historical patterns of land-use development and the enforcement of environmental regulations, they are, often, simply not named (p.50-51).

The layers of ideology and discourse to which these authors refer surround the concept of multiculturalism which is national policy in Canada. It is often explained as a remedy or obstacle to any forms of racism which might happen here. What it also does is contribute to the unclear way in which ER takes place.
Parallels may also be drawn between the exclusion of minority representation from planning boards and environmental organizations in the United States and the exclusion of First Nation people in decision-making processes over their land. The devastating results of ER, which is ultimately its greatest consequence, have also appeared in Canada as in the US. Parallels can be drawn between the processes that led to developmental and hormonal disruptions resulting from PCB contamination in Warren County to the adverse health effects that were (and still are) experienced by the Aamjiwnaang First Nation in the Chemical Valley.

Understanding the consequences of ER in both of these countries’ histories is extremely important; as Benjamin Chavis explains in the video “Toxic Racism” (1994), the significance of ER over other forms of racism is that it results in loss of life for its victims. The health of minorities in North America all over has been unfairly compromised and the processes that led to this pattern are not coincidental; this is the bottom line.

In this paper, there has been much mention of racism against Canada’s indigenous peoples, but not any of Native Americans. It must be briefly stated that indigenous peoples in the US are subject to ER as are other minority communities. By no way does this study intend to draw similarities between Canadian First Nation people and African American people; the only parallel is as recipients of environmental burdens as a result of discrimination. Mention of Native Americans is not included in this paper simply because the ER movement in the US emerged from case studies of African American communities and has been more publicized in this context. Much more could be written on comparisons of indigenous people in both Canada and the US as victims of environmental tragedies; however, this would not be consistent with the purposes and scope of this paper.
Conclusions

The concept of environmental racism was originally defined in the United States in how it explained the unequal proportion of environmental burdens shared by predominantly African American communities. The movement in the US is much larger than that in Canada, and the majority of the literature surrounds the contributing factors and resulting discriminatory processes that take place in black minority communities. Exclusionary zoning, racial steering or “redlining”, and unequal environmental protection experienced in these communities are some of the main examples of how conditions of ER emerge there.

This research study did not intend to compare the struggles and experiences between Canadian First Nations and African American people; rather, one of the goals was to see if the concept of ER, as defined in the US, could be applied in the Canadian context. First Nation communities are under very different jurisdiction than the rest of Canada, and for this reason discrimination in terms of environmental protection, policy making, decision-making processes, etc. can be directly attributable to race and institutional processes. According to Westra (1999) “[Environmental racism] 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.” The same cannot be said in the case of other minority groups in Canada, nor of African American minority communities. The study of ER in Canada’s urban centers and amongst other minority groups is less clearly defined since Canada does not have the same history of residential segregation as in the US.
One of the major questions that was received throughout the development of this study was what exactly, environmental racism is, and furthermore why use such terminology when all of the processes it seeks to encapsulate can be articulated using other concepts and terminology. What became increasingly apparent to me was how little understanding there is of racism in Canada and furthermore of the differences in environmental protection and quality that minority groups actually do experience—especially indigenous peoples—in both Canada and abroad. What the environmental justice movement was able to do in defining “environmental racism” was bring the issues to the forefront and gain credibility for the cause. In Canada the literature and publicity of ER has a long way to go in comparison to the US; however, minorities here too do not share the same level of environmental protection, services, and relevant political power as non-minority groups. The use of the word seems to engage attention and in the very least stimulate questions and debate, and this in itself is a milestone that must take place for any successful movement to emerge. Environmental racism being accepted within American policy and social science terminology marked a huge accomplishment for minority environmental advocacy. Hopefully the use of this kind of terminology will amount to the same results in the case of First Nations in Ontario and elsewhere in Canada.

(Word count: 12,320)
Summary of Main Points

- Environmental racism (ER) refers to racial discrimination in: institutional processes including environmental policy, regulation, and enforcement; the siting of polluting industries in communities of colour; exclusion from decision-making processes
- ER was originally defined in the context of environmental burdens experienced in African American communities
- ER, as defined, does present itself in certain instances in Canada and holds serious implications for First Nations, but is less clearly presented in Canada’s urban centers and non-First Nation communities
- Ontario First Nations are subject to ER emerging from institutional processes including the Indian Act and the Far North Act; competing federal and provincial jurisdictions and responsibilities; and from limitations of land-use planning regarding equal opportunity and consideration
- Effects of ER amongst Ontario First Nation communities taken from case studies involving the Aamjiwnaang and Kashechewan First Nations include: water quality standards, pollution exposure, remediation of health effects from environmental contaminants, and in the unequal participation in land-use planning
- The emergence of ER advocacy in Canada must begin with bringing its terminology into mainstream discussions and literature, as was experienced with the growth and recognition of the movement in the United States

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