

## **Why the Nuluujaat Land Guardians' counterclaim against Baffinland is unique in Canada**

Amy Tucker, Jackie McKay · CBC News: Aug, 2022

*Usually very hard for regular citizens to bring environmental law disputes before the courts: legal expert*

A recent legal move by the Nuluujaat Land Guardians, a group of Inuit protesters, to sue Baffinland Iron Mines is unusual in Canada, says one lawyer watching from afar.

And it's made possible thanks to environmental legislation unique to Nunavut and the N.W.T., which allows people to take up claims of environmental damages within the territories on behalf of everybody who uses the area.

"I can't think of a case where the defendants have basically turned around and used it as an opening of a door to get some of their arguments and concerns before the court," said Ben Ralston.

Ralston teaches at the University of Saskatchewan College of Law and has previously taught environmental law, and at the Nunavut Law Program.

The Nuluujaat Land Guardians were first sued by Baffinland in February 2021, after the guardians set up a temporary blockade at Baffinland's Mary River Mine about 176 kilometres from Pond Inlet.

Baffinland Iron Mines' lawsuit, filed in the Nunavut Court of Justice, accuses the group of trespassing, unlawful interference with economic interests and mischief. In early March, a [Nunavut judge issued an injunction](#) in relation to the case, banning protesters from obstructing the mine's airstrip and tote road.

Just last month, on July 12, the Land Guardians filed their statement of defence, alongside a countersuit of their own that makes several claims against Baffinland, asking the judge for an injunction that would stop Baffinland from emitting noise and dust pollution into the surrounding areas.

"To kind of turn this around and make it a lawsuit against Baffinland is, I guess, a bit of a power move."

### **A right 'to speak on behalf of Nunavut as a whole'**

Ralston said this case is testing several legal arguments and one statute in particular for Nunavut, that's rarely been used. (Continued next column)

## **(From last column) Nuluujaat Land Guardians' counterclaim**

The Nunavut Environmental Rights Act states that every resident in the territory has the right to "protect the environment and the public trust from the release of contaminants by commencing an action in the Nunavut Court of Justice against any person releasing any contaminant into the environment."

That's compared to legislation in southern jurisdictions, where not just anyone can file their environmental concerns in court, Ralston said.

"I might see pollution happening, I might be upset about it. Of course, though, there will be regulators, I might be able to call up and try and report pollution to."

But ordinarily, he said, most regular citizens don't get to just bring any kind of claim into court.

"It's very hard, traditionally, to get standing to bring environmental law disputes before the courts."

## **After injunctions, lawsuits typically don't go anywhere, Ralston says**

Ralston said lawsuits seeking injunctions over protesters often don't end up going to trial once the injunction has been issued.

"Normally what you'd see is the action gets filed, then they bring the injunction, they argued the injunction, and once they have that, and once there's no longer interference or [a] blockade or any sort of dispute to resolve, usually you'll see that action not really going anywhere," he said.

In this case, however, the protesters have taken the opportunity to make a wider case of their own.

Baffinland's original suit named five defendants, alongside "John Doe and Jane Doe" and "all other persons unknown to the plaintiff." The statement of defence and counterclaim was filed by three of those named — Tom Naqitarvik, Christopher Akeagok, Johnathan Pitula — who their lawyer, Anne Crawford, referred to collectively as the Land Guardians.

Crawford said the purpose of the countersuit is twofold.

First, it's about countering Baffinland's claim saying that the company lost millions because of the protests, she said. The land guardians argue that the company gained money as a result of the blockade due to rising prices in the worldwide iron ore market.

But more crucially, the counterclaim is about protecting the environment, particularly in regard to sound

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## 2022 International Day of Peace

By: Laura Savinkoff on behalf of the BPI

Laura thanked Martin for his insights and stated that most of us do not even realize when we make racism comments or take actions that reinforce systemic racism. She related a conversation with her 10 year old Granddaughter about unconscious superiority regarding the English language. It started with the terminology used on social media. The young girls stated that everyone knows what all those terms mean and when Laura said she doesn't, the girl translated the terms. Laura asked her if a non-English speaking person would understand these terms and symbols. Of course, Baba, everyone understand English, was her response. This is systemic racism, said Laura and went on to explain that we assume everyone knows and understands and does what we do and if they don't there is something wrong with them. Racism is not just the colour of your skin it is also an attitude of superiority or unconsciously expecting everyone to be the same and if not then treating them with disdain, disrespect and simply looking down our noses at them. Like of course, everyone speaks English, right? This was an opportunity to bring home to this child who has been raised in a neighbourhood of people from around the world in Calgary but, like most of us, is unaware that we have racist tendencies out of ignorance of what it actually is and how invasive it is.

Before introducing a lady that needs to get somewhere else with an invitation, Laura asked us all to think about what racism means and what we can do to stop it.

Tamara extended an invitation to a four-part series of workshops to be held at the USCC Community Centre starting November 5<sup>th</sup> on Non-Violent Compassionate Communication. She provided printed information and urged people to register at the USCC offices. This is not a free workshop, she said, but did not yet know what the cost will be. (Ed. Note: the cost is \$150 for three full day sessions and will be held in November).

Laura gave the floor to JJ Verigin to share his thoughts because he also had to leave for a friend's Memorial Service. JJ began by passing on greetings from the Kootenay gathering on the 21<sup>st</sup> for the International Day of Peace, where they planted bushes at the Doukhobor Discovery Center (Museum) in honour of activists that have died. He then thanked Victoria for her kind words about the Doukhobor people but was uncertain if we deserved that kind of praise, since we are not as active or as righteous as we could and should be. He supported Laura's thank you for the First Nations help when we first arrived on their lands in 1899.

JJ said that sadly, in Canada racism directed at the First Nations and at groups like the Doukhobors, left a mark on us all. (Continued page 4)

## (From page 1) Nuluujaat Land Guardians' counterclaim

contamination related to shipping, and dust contamination from mining activities.

"Their [the Land Guardians] real goal is to ensure that that area is environmentally protected," Crawford said.

The counterclaim document also says the guardians want compensation for anyone whose hunting rights have been impacted.

### Case yet to go to trial

The Land Guardians' claims, along with Baffinland's, are still before the court. It's not yet clear when the case will go to trial.

In an email, Baffinland spokesperson Peter Akman described the guardians' claim as "frivolous."

"Many of the statements within it are clearly untrue and represent a clear lack of understanding or intentional mischaracterization of Baffinland's operation and mining in general," he wrote.

"The protestors unlawfully prevented hundreds of employees from returning to their families and put lives at risk," he said.

Akman also said that the protestors are claiming an interest in [Qikiqtani Inuit Association] and Crown land, "which we assume will also be challenged."

Though the approach by the Land Guardians is uncommon, it's not the first time this legislation has been used in Nunavut, Crawford said.

She referenced a case from the early 2000s when a group of citizens went to court over the City of Iqaluit's routine burning of garbage at the dump. They raised health concerns about the resulting air pollution.

"So it's not completely untested," Crawford said of the use of the Nunavut Environmental Rights Act.

"But it's very uncommon and there isn't a counterpart in southern law."

## Tell the Canada Pension Plan to Divest from War Profiteers

From: World Beyond War

You may know that the Canada Pension Plan (CPP) manages \$421 billion on behalf of over 20 million working and retired Canadians, perhaps including you. **But did you know that the CPP actually invests over \$870 million CAD into global weapons dealers?** This includes \$76 million invested in Lockheed Martin, \$38 million in Northrup Grumman, and \$70 million in Boeing, which are some of the biggest arms manufacturers in the world. What's more, the CPP also finances climate crisis, war, and international human rights violations in the name of "building our financial security in retirement."

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### Our Mission

The Boundary Peace Initiative represents people of diverse backgrounds officially brought together in 2002 because of our mutual concern for the rise in world conflict. Our mandate is to participate in multilateral non-violent conflict resolution in support of global human rights, ecological and environmental sustainability and international law through education, sharing of information, dialogue and activism locally and globally. We encourage and seek your participation in our mutual work for true peace based on social justice, equality, accountability, integrity, honour, respect, etc in order to build a better world today and future generations.

**BPI web site: [www.boundarypeaceinitiative.org](http://www.boundarypeaceinitiative.org)**

**For info contact Laura at (250) 444-0524 or (250) 442-0434 or email: [L4peace@telus.net](mailto:L4peace@telus.net).**

### UN International Days

**Dec. 1:** World Aids Day

**Dec.2:** International Day for the Abolition of Slavery

**Dec. 3:** International Day of Persons with Disabilities

**Dec. 5:** International Day for Economic and Social Development

**Dec. 9:** International Day of Commemoration and Dignity of the Victims of the Crime of Genocide and of the Prevention of this Crime

**Dec. 9:** International Anti-Corruption Day

**Dec. 10:** Human Rights Day

**Dec. 18:** International Migrants Day

**Dec. 20:** International Human Solidarity Day

**Dec. 27:** International Day of Epidemic Preparedness

(From page 2) **Canada Pension Plan**

**In reality, these investments destroy our future rather than secure it.** It's time to divest from companies that profit from war, violate human rights, conduct business with oppressive regimes, damage vital ecosystems, and prolong the use of climate-wrecking fossil fuels – and to re-invest in a better world instead.

So, what can we do? Every two years, the CPP is required by law to hold free public meetings to consult with Canadians over their management of our shared retirement savings. Fund managers overseeing our \$421 billion pension fund are holding ten meetings from October 4th to 28<sup>th</sup> ....

**Ed note:** Sorry for not alerting you sooner but the email came in too late for the October Newsletter. So remember that in 2 years we will have the opportunity to voice our opinion again. But it is never too early or too late to voice your concern by contacting your MP and the Prime Minister.

### Cover your hair. Don't cover your hair. The right to choose

By: Ehab Lotayef (October 2022)

The tragic death of 22-year-old Iranian student Mahsa Amini reverberated across the world including here, in Quebec. The courage and persistence of the Iranian people, and particularly Iranian women, who took to the streets to condemn Amini's killing and to fight for their freedom of choice is nothing less than heroic.

People worldwide, including thousands of Quebecers, supported them, stood behind them and marched in the streets in solidarity with them.

We have just gone through an election campaign that has been marred by Mr. Legault and The Coalition Avenir Québec's (CAQ) public attacks against newcomers, he linked immigrants to "extremism" and "violence." and the CAQ Minister of Immigration, Jean Boulet, said "80 percent of immigrants go to Montreal, don't work, don't speak French, or don't adhere to the values of Quebec society."

Soon after forming government in 2018, the CAQ introduced Bill 21 (now Law 21) which has, in effect, barred many, and disproportionately Muslim women, from dressing the way they choose to. Unfortunately, Law 21 was supported by a considerable number of Quebecers.

This leaves me wondering, how can one support the freedom of women in Iran to wear what they want and, at the same time, refuse such a right for women in Quebec.

Though not to draw comparisons to Iran, the consequences of not abiding by Law 21 can be significant to Muslim women. They can pay for it by losing their careers and their ability to put bread on their family's table.

I strongly oppose and condemn laws forcing women to cover their hair in Iran, in principle and not only because of the consequences that result from applying such laws. The principle is that of freedom of choice. Everyone's right to dress or express themselves the way they want to should be protected (as it was by the Quebec Charter of Rights and Freedoms before the CAQ changed it). The same principles make me oppose Law 21 and support the right of women in Quebec to dress the way they want to.

It is problematic that our Quebec society supports women's right in Iran to wear what they want, yet accept to restrict such a right, locally. What gives me some hope is knowing that many Quebecers who support Law 21 do not necessarily want to see it enforced. According to a survey by the Association for Canadian Studies "only 40 percent surveyed believe a public servant who does not comply with the law should lose their job."

I hope that, in the near future, the majority of Quebecers would see what Michel Leblanc, president of the Montreal chamber of commerce saw when he said "We need new bodies, new brains, new hands," adding that Quebec shouldn't hinder immigration "with all sorts of qualifications".

I hope that we can also see immigrants as more than bodies. hands and brains, but also feelings, beliefs and cultures, and that there is a way for all of us to benefit from all what immigrants bring to us, and live together in a healthy and respectful society.

*Ehab Lotayef is a poet, writer, community activist, IT Manager at McGill University, co-founder of Non a la loi 21*

## WHAT'S UP?

*This is the month of important events for many faiths. The BPI wishes joy and peaceful living to our global community. As the New Year rolls in we will continue to build a living, breathing peace that will create harmony and love to all that exists on Mother Earth. We thank you for your ongoing support and look forward to working with you in 2023.*



The BPI at this time has no events planned. If you have an event that supports the BPI mission statement please contact us and we will circulate your information in the Newsletter and on our website.

Voice your opinion to the Prime Minister and all MPs. Free postage:  
{Name of MP}, Parliament Buildings,  
Ottawa, Ontario, K1A 0A6  
Go to the Government of Canada website for MP contact information at  
<http://www.canada.gc.ca>

The BPI welcomes your input. Articles may not be common consensus of members. To submit articles contact Laura at **250-444-0524** or **250-442-0434** or email **L4peace@telus.net**.

The BPI is an affiliate of the Fellowship of Reconciliation, Peace Pledge Union, Stop Ecocide Canada, Abolition 2000 & CNANW and works with local and global peace, social justice and environmental groups.

## (From page 2) 2022 International Day of Peace

We are acutely aware of the depth and damage from racism. This year's United Nations theme for International Day of Peace ties into the UN Declaration of Human Rights. We all need to think about and find ways to act that value others' culture and traditions. We are all guilty of violating our neighbours' culture, near and far, unconsciously and in some instances consciously.

JJ concluded that we need to realize that every word and every action we take may not be appropriate to someone's culture or faith or tradition but if we don't know then we need to inquire. And if we inadvertently or out of ignorance hurt someone or violated their human dignity then we must apologize. And most importantly we must learn from that mistake and not assume that we are aware of all the nuances of anyone else's culture, traditions, faith. Assuming that race determines ones abilities and skills and intelligence must be overcome. We deny others' Human Dignity when we don't listen, truly hear, understand or act whether from the perspective of superiority or even out of ignorance. We can and must do better.

Laura thanked JJ for his passionate words. She then explained the display of White Poppies. It is important we wear the White Poppy to show that we honour all victims of war from the soldier to the child to the animals to the environment, said Laura. We do not insist that anyone replace wearing the red poppy but remind you that the white poppy preceded the red one and the white is inclusive of all nations, all races, all facets of our world, she concluded.

After a short break, Laura encouraged people to share their thoughts and ideas. Not all comments were noted in detail so the following will be a short synopsis of the most prominent thoughts, ideas and suggestions. She also reminded everyone that we must have the courage to listen as much as speak even if what we hear is sometimes uncomfortable to hear.

A lady related a story of her experience as a resident in Toronto; she was moved by Victoria and Martin's presentations and thanked them for their courage and knowledge.

Shelley spoke about growing up in Saskatchewan and the biases picked up throughout our lifetimes. By reading a book, she said, (we didn't note the book) a distinction came to light. There is Racism and then there is Racial Bias. Racial Bias is unintentional racist comments or behaviour but comes from being raised around racial assumptions. Racism, Shelley said, is intentional actions with an attitude of superiority that diminish 'the other', whomever we think is the other. But Racial Bias is unconsciously acting or speaking from learned behaviour and is not intended as a put down or as power over others. Most of us have such biases, whether we realize it or not.

Martin shared his experience with Sectarian violence that is also a form of racist prejudice and is rooted in fear and assumption. When people demean others within their group or culture that also is a form of racial bias or racism itself.

Anne spoke of her observation in the animal kingdom where there is prejudice within the herd or flock because they will push out and even harm the one that is different. So, maybe humans are acting on instinct, on hardwired patterns. (Conclusion next issue)