

**Australia as a Settler Colony: Contemporary Settler Colonialism in the Context of
the Mining Industry in Australia**

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Abstract

Australia is often referred to as a post-colonial nation or decolonized state in the literature on colonial studies, in policy approaches, and in the media. However, due to the nature of settler colonialism and the severe negative impacts Aboriginal peoples continue to experience in modern society, Australia cannot be considered a decolonized state. These negative impacts are especially shown in the mining industry. They consist of the removal of Aboriginal peoples, the destruction of their ancestral lands due to mining operations, and the lack of rights they possess in order to protect their land. The mining industry physically destroys places of cultural significance, erasing the cultural heritage of the Aboriginal peoples. Additionally, the mining obstructs the path to Aboriginal self-determination, which is part of the decolonization process, as their social, economic, and cultural needs cannot be met. These detrimental impacts continue to affect the lives of Aboriginal people to this day, illustrating how settler colonialism has not ceased to exist but is an ongoing process.

Keywords: settler colonialism, decolonization, Australia, mining, Aboriginal peoples, resource extraction

Table of Contents

Introduction	4
Disclaimer	6
1. Colonialism and Decolonization	7
1.1 Extractive versus Settler Colonialism	7
1.2 Decolonization	10
2. Settler Colonialism in Australia	11
2.1 Terra Nullius	12
2.2 Connection to Country and Aboriginal Identity	13
2.3 Self-determination	15
2.4 The Logic of Elimination	16
3. The Mining Industry and Settler Colonialism in Australia	18
3.1 Overview of the Mining Industry	18
3.2 Native Title	21
3.3 Case Studies	23
The Pilbara region	23
The Kimberley region	26
4. Conclusion	29
5. References	31

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The spread of European imperialism in the 15th century led to the colonization of several territories and countries across the world. The arrival of the colonizers and the establishment of colonial powers significantly influenced the region's socioeconomic landscape, culture, and political dynamics (Verachini, 2011). This has had detrimental effects on the indigenous communities within these countries, as colonial powers often used violent measures to impose power and limit the rights of the native inhabitants (Veracini, 2011). In the context of Australia, this applies to the Aboriginal and Torres Strait Islander peoples, the Traditional Owners of the land.¹

The process of reversing these impacts and undoing colonial structures has been referred to as 'decolonization' by Tuck and Yang (2012). This concept will be further discussed and defined in this dissertation. In Australia, settlers have placed decolonization in different moments throughout time, referred to as the technologies of temporality by Strakosh and Macoun (2012). Based on different policy approaches over the last decades, decolonization has been placed in the past, the present, or the future, changing how Aboriginal people have been treated. Placing decolonization as an event in the past suggests that Australia is a decolonized state. This statement is widely contested amongst Aboriginal and non-Indigenous people as they argue that settler colonialism and its impacts still influence the lives of Indigenous people in our current society (Strakosch & Macoun, 2012). However, Australia is commonly referred to as a post-colonial nation or decolonized state in academic literature, policy analysis, and cultural studies (Strakosch & Macoun, 2012).

Australia's mining industry, comprising 10.4 percent of the country's GDP (Gross Domestic Product) and playing a part in the national economic growth and development, continues to show aspects

¹ For the sake of brevity, in this dissertation, 'Aboriginal and Torres Strait Islander peoples' will be referred to as 'Aboriginal peoples.'

of contemporary settler colonialism (Transparency International Australia, 2022). Approximately 60 percent of mining operations and projects in Australia are located near or within Aboriginal communities, resulting in direct environmental damage and pollution (Langton & Mazel, 2008). This has significant negative effects on the lives of Aboriginal peoples, as the concept of mining, rooted in Western capitalism, is in deep conflict with the cultural value Aboriginal peoples attribute to the land. The industry is often seen as a manifestation of neo-colonial capitalism that supports the claim that settler colonialism is an ongoing process in Australia (Cousins & Nieuwenhuysen, J, 2020).

In this dissertation, I will argue that Australia cannot be considered a decolonized state by using the mining industry to illustrate how settler colonialism is still rooted in today's society, economy, legal system, and policies and how it still negatively affects Aboriginal peoples. In order to give context to my thesis statement, I will first provide a broad discussion of the concepts of colonialism and decolonization in Section 1. I distinguish between extractive colonialism and settler colonialism, as this is essential in understanding the situation in Australia. In Section 2, I will delve deeper into Australia as a settler colony by explaining the initial arrival of the settlers and the importance of land to Aboriginal peoples. The importance of land will be discussed again concerning self-determination, as self-determination is seen as a critical step toward decolonization. Next, I will discuss the theory 'Logic of Elimination' first proposed by Patrick Wolfe (2006), which explains how settler colonialism is an ongoing structure rather than an event. This helps explain why Australia is not yet decolonized. Lastly, I will discuss the situation regarding the mining industry and how this has impacted the lives of Aboriginal peoples in Section 3. Examples from the Pilbara and Kimberley regions will be used to argue for my thesis statement and clearly demonstrate how these cases indicate that settler colonialism is an ongoing process in Australia. I will finish with a conclusion that summarizes the main arguments and states possible implications.

Disclaimer

As a non-Indigenous and non-Australian person, I recognize that my position comes with a history of privilege and power that can cause me to have certain biases and limitations within my research. In conducting this research, I acknowledge Aboriginal and Torres Strait Islander peoples' continuous struggles rooted in settler colonialism.

I aim to clarify that I do not consider myself an expert on Indigenous issues or settler colonialism in Australia. Instead, I strive to contribute to discussions about Indigenous sovereignty and decolonization by critically examining settler colonialism and the mining industry in Australia. In doing this research, I want to pay my respect to Elders past, present, and emerging.

1. Colonialism and Decolonization

To be able to grasp the situation in Australia, I must first explain the general process of colonization as well as decolonization. This section will concisely explain both while distinguishing between extractive and settler colonialism. It discusses why the different forms of colonialism have developed where they have and how this determines the process of decolonization.

The United Nations defines colonialism as an international practice that involves ‘the subjection of peoples to alien subjugation, domination, and exploitation’ (United Nations General Assembly, 1960). It refers to a country exercising political and economic control over another country or territory while ignoring and violating the sovereignty and fundamental human rights of the native population (Lu, 2011). The imperative for land drives colonization, as land is the most desired and contested element in colonialism and the primary source of capital (Dang, 2021). The disputes over land, therefore, form the basis of the historical and contemporary relationship between the colonizer and the colonized (Dang, 2021). Colonialism can be divided into two major classifications: extractive and settler colonialism. These will be discussed in this section. It is essential to distinguish between the two types of colonization, as they determine the current state of the formerly colonized countries and the specific process of ‘decolonization’ that the colony has or has not experienced. This is necessary to understand, as it helps explain why Australia cannot be regarded as a decolonized state due to the nature of settler colonialism and its consequences for decolonization.

1.1 Extractive versus Settler Colonialism

Extractive (or exogenous) colonialism refers to the exploitation of colonial territories, usually by European empires, without the aim of setting up settlements and investing in the colony’s development (Dell & Olken, 2019). Extractive colonialism involves the appropriation of ‘all things Native,’ including indigenous peoples, animals, plants, and natural resources such as iron, diamonds, and oil (Acemoglu,

2001). An extractive state's initial and primary goal was to increase the wealth of the colonizing power through resource exploitation, often to the detriment of the native population and local development (Dell & Olken, 2019). For example, the key aim of the European empires Spain and Portugal was to extract gold, slaves, and other commodities from their colonies in America (Acemoglu, 2001).

Settler colonialism, conversely, is characterized by the permanent settlement of colonizers who establish communities and institutions while imposing Western values and ideals on the indigenous inhabitants (Veracini, 2011). Settler colonialism is defined by the ongoing pattern of colonization, which involves a continuous struggle for control over land and the rejection of the sovereignty of Indigenous peoples (Veracini, 2011). Settler colonialism strived for settler sovereignty over everything within their newly acquired territory (Tuck & Yang, 2012). According to Strakosh and Macoun (2012) and Patrick Wolfe (2006), the settlers' ultimate goal was often to replace the native population entirely. In contrast to extractive colonies, which primarily sought to exploit the colony's natural resources and labor to benefit the colonizing power's economy, settler colonialism is an ongoing process of dispossession (Veracini, 2010).

Whether a colony became an extractive or settler colony is closely related to the settler mortality rates in this particular region, as this determined the feasibility of settlement, according to the empirical research by Acemoglu (2001). This, in turn, determined the establishment and quality of institutions. I find it essential to include this, as the establishment and quality of institutions determine a great deal about the 'decolonization process' and how Indigenous people have experienced colonization. Countries with a high mortality rate at the start of colonization were more likely to become extractive colonies, as the conditions were inadequate to settle. These inadequate conditions include a disadvantageous disease environment and/or unfavorable climate conditions for European settlers, leading to a higher mortality rate amongst the colonizers. Countries in which these conditions were favorable for the colonial power

resulted in a lower mortality rate among European settlers and were, therefore, more likely to become settler colonies (Acemoglu, 2001).

In extractive states, institutions and governments were built around the central goal of transporting resources rather than providing a stable and resilient foundation for settlements (Acemoglu, 2001). This resulted in the formation of authoritarian and absolute states that strengthened the colonizers' control and made the extraction of resources more effective and efficient (Acemoglu, 2001; Maseland, 2017). Institutions within these states provided inadequate protection of private property, as land ownership and distribution were solely assigned to the state, stemming from land being the key element of exploitation (Acemoglu, 2001; Maseland, 2017). The minimal constraints on state power in these colonies led to incredibly high tax rates on the local population, creating an unequal relationship between the colonizer and the colonized (Acemoglu, 2001; Strakosch & Macoun, 2012). These relationships continue to be structured in this same manner in contemporary international relations, demonstrating the economic and political disadvantage these colonies endured (Strakosch & Macoun, 2012).

In settler states, the lower death rates allowed the colonizers to stay establish settlements. They tried to create a sense of familiarity and cultural continuity in the colony by replicating life in their home country (Acemoglu, 2001). This included founding representative institutions modeled after European standards, establishing private ownership and livestock, and creating the foundation for capitalism within this system (Denoan, 1983). Instead of setting up institutions solely benefitting resource extraction, institutions were established that benefitted the white settler community rather than the Indigenous communities. The native population was seen as an impediment to progress and needed to be eliminated in order for the settler community to thrive (Acemoglu, 2001; Denoon, 1983)

This comparison clearly shows that institutions established in extractive colonies have a completely different end goal than institutions established by settler colonialism, as the latter was meant to provide the incoming settlers with a strong foundation and secure environment, and the former had no

interest in this approach. This difference in institutions can explain the different processes of decolonization, which I will now discuss.

1.2 Decolonization

Decolonization is often regarded as the phenomenon in which colonies become independent of the colonizing country (Jansen & Osterhammel, 2019). Decolonization can take many forms, and it can both be seen as a specific moment in history and as the multifaceted process to reverse colonization, as discussed in the book by Jansen and Osterhammel (2019). This differs in every region in the world that has been under colonial rule and is determined by the type of colonization (extractive or settler colonialism) (Jansen & Osterhammel, 2019).

Different types of colonization determine different forms of decolonization. In extractive colonies, a specific moment that 'marks decolonization' can be identified by a declaration of independence (Jansen & Osterhammel, 2019). For example, the former Belgian colony of Congo gained independence on June 30th, 1960. The native inhabitants remained the dominant population after gaining independence. In these colonies, decolonization entails the indigenous community's establishment of self-determination and self-governance and a shift in the economic and political power structure. The importance of self-determination for the native population in the decolonization process will be explained in section 2.3.

In settler colonies, identifying one specific moment in history that marks decolonization is difficult, as sovereignty from the colonizer is gained by the settler community rather than the indigenous community and does not equalize self-determination for the Indigenous peoples (Memmi, 2003). Gaining independence did not include the departure of the European settlers that had established a community within the colony but rather the increase of power of that settler community. This means that the dominant population became that of the settlers and not of the original inhabitants. For example, Australia has

gained independence from its former colonizer in 1901. However, this did not align with the gain of self-determination and rights of the native population, as they continued to be marginalized by the settler community. The pressing issue remains that, up until today, the Aboriginal peoples in Australia have not gained independence and are not recognized in the Constitution (Strakosch & Macoun, 2012).

Decolonization has become a buzzword, as it is often used superficially, losing its nuanced and complex meaning. For instance, it is used when referring to reconciliation strategies that aim to mitigate the negative impacts of settler colonialism by recognizing and acknowledging them rather than taking concrete action. According to Tuck and Yang (2012), decolonization must not be used interchangeably concerning reconciliation and social justice projects involving civil and human rights. When decolonization is failed to be seen as a distinct process that involves Indigenous struggles for recognition of sovereignty, the significance of the term is reduced. This will work against the process of decolonization, as metaphorical decolonizing discussions seek to mitigate the impacts of colonialism rather than abolish colonial power systems entirely. The appropriate way of using the term decolonization is when discussing reversing colonization's effects by addressing the structural and systemic issues caused by it (Tuck & Yang, 2012).

One of the ways in which settler-colonialism is structural is the ongoing acquisition and control of land and attempts to either forcibly remove the Native population from the land or to gain ongoing access to their land. This will be demonstrated in section 4 of this dissertation by looking at the mining industry in Australia. But first, I will discuss how settler colonialism manifests more generally in the Australian context.

2. Settler Colonialism in Australia

After examining the processes of colonization and decolonization, we are able to discuss settler colonialism in the context of Australia. This chapter will elaborate on the start of Australia as a settler

colony by putting forward the concept of 'Terra Nullius.' This concept explains the importance of land and how land has played an immense role in obtaining Australia. This is necessary to understand, as land is seen as the focal point of conflict between the mining industry (the colonizers) and the Aboriginal peoples (the colonized). Next, the importance of land specifically to Aboriginal peoples will be elaborated on, using the term 'Country.' This will provide a foundation to understand the importance of land in gaining self-determination, discussed accordingly. Lastly, the 'Logic of Elimination' concept will be explained, further exploring the idea that Australia is a settler colony and not yet a decolonized state.

2.1 Terra Nullius

The driving force behind settler colonialism is access to territory, which is considered its distinctive and essential feature, as land is necessary for life (Dang, 2021). To understand settler colonialism in the Australian context, I must first explain the concept of 'Terra Nullius,' as this is one of the main arguments of the settlers to claim Australia. Upon the arrival of the British settlers, they assigned the land as 'Terra Nullius,' meaning that the land was unoccupied and belonged to no one (Mercer,). In the settlers' opinion, this belief supported the justification of taking the land from its original inhabitants.

The main argument for this was that Australia was incredibly sparsely populated by the Aboriginal peoples. The settlers argued that this took away their right to view all of Australia as their own, as it is not realistic for a small group to claim an area larger than Europe (Banner, 2005). The philosopher De Vattel discusses this dilemma in his '*Law of Nations*' on the principles of international law. He supports this argument by stating that a small society cannot rightfully claim a vast area as there is not enough habitable land in the world (De Vattel, 1797).

Another reason that supports the belief of 'Terra Nullius' through the perspective of the initial settlers is the hunter-gatherer way of living of the indigenous peoples. This absence of cultivation in Australia indicated that property rights were not established or recognized then. This is because the

development of property rights comes with the establishment of farms since agriculture requires time, effort, and investment, incentivizing farmers to create boundaries around their newly established 'property' (Banner, 2005). This made it relatively easy for the settlers to occupy the land and assert ownership, as this had not developed in Australia. Moreover, the settlers believed they could utilize the land more productively and efficiently compared to the native inhabitants (Banner, 2005).

While discussing the settler's appropriation of Australia and the concept of 'Terra Nullius,' we have determined that land is the key driving force behind settler colonialism. Land is necessary for life and is the source of capital that enables settlers to thrive (Wolfe, 2006; De Leeuw, 2018). Land as a colonial property is perceived as the foundation on which the power structure of colonialism is built (Jansen & Osterhammel, 2019). Reversing the process of land appropriation would involve repatriating land to the native people (Dang, 2021). This is seen as a critical step in the process of decolonization in Australia (De Leeuw, 2018). In the next section, the importance of land for Aboriginal peoples will be further discussed using the term Country, giving context to the severe impact the mining industry has on Aboriginal peoples.

2.2 Connection to Country and Aboriginal Identity

We have confirmed that land is the driving force behind settler colonialism and is the most contested element among the colonizer and the colonized. Aboriginal peoples' relationship to the land is different from miners and colonizers, often resulting in conflict regarding the utilization and distribution of the land (Bainton, 2020).

For the colonial power, land is essential as it is a source of money; it is seen as profitable. For instance, mining companies consider land as a valuable source of minerals, presenting opportunities for development and economic benefits (Banerjee, 2000). For the Aboriginal and Torres Strait Islander peoples in Australia, land has a much deeper meaning to it (Banerjee, 2000). This deeper connection is

conveyed in the term connection to Country, which encompasses not only the physical aspect of the land but also the spiritual and cultural connection to the land. To the Aboriginal peoples, the land holds cultural and ancestral significance, serving as a vital resource for their nutritional and medicinal requirements that encompass elements like waterways, wildlife, and flora (Banerjee, 2000).

The First Nations Peoples refer to themselves as part of 'Country' and view it as their overarching belief system and native home (Kohen, 2003; O'Faircheallaigh, 2008). Consequently, the land is regarded as the basis of Aboriginal identity and is necessary for their survival, and positively influences their economic and social growth (Collingwood-Whittick, 2008).

'People talk about Country in the same way they would talk about a person: they speak to Country, sing to Country, visit Country, worry about Country, feel sorry for Country, and long for Country. People say that country knows, hears, smells, takes notice, takes care, is sorry or happy ... Country is a living entity with a yesterday, today, and tomorrow, with a consciousness and a will towards life. Because of this richness, Country is home, and peace; nourishment for body, mind, and spirit; heart's ease.' (Rose, 1996; cited in O'Faircheallaigh, 2008)

The key element of the relationship between the Aboriginal and Torres Strait Islander Peoples and Country is 'reciprocity.' This includes the belief that humans should only take from the earth what is necessary to sustain life and which keeps the planet and its resources in balance. This belief stems from the hunter-gatherer way of living of the Aboriginal peoples, as their belief includes that Country provides them with all they need in order to survive, placing considerable pressure on natural resources, plants, and animals. By emphasizing reciprocity, the community is able to maintain its population by ensuring a mutual balance (Kohen, 2003).

Another critical aspect of Country is how it is incorporated into the First Nations Peoples' shared history and heritage, shaping their Aboriginal identity. Since the Aboriginal culture does not include a written language, communication through oral stories, song, dance, and paintings has been vital for the survival of Aboriginal culture and is strongly connected to the land these communities live on and interact with (Kohen, 2003; O'Faircheallaigh, 2008).

2.3 Self-determination

Aboriginal and Torres Strait Islander peoples have undergone a continuous struggle over the access and ownership of their ancestral lands. This struggle for land is central to the need and aim for self-determination. Self-determination is defined as: 'The ongoing process of choice to ensure that indigenous communities are able to meet their social, cultural, and economic needs, without political interference' (Reid, 2019). Reid (2019) states that regaining land rights is one of the most critical steps in achieving self-determination, as land is seen as the foundation for economic independence, affecting all aspects of Indigenous life.

Self-determination in the context of Aboriginal Australia includes the regaining of sovereignty by the Indigenous people and the ability to control their own lives and choices. It also includes acknowledging Aboriginal and Torres Strait Islander peoples as First Nations people. It is seen as a required step towards overcoming the contemporary disadvantages indigenous people suffer from the colonial past (Shrinkhal, 2021). Complete self-determination would significantly positively affect the lives and livelihoods of Aboriginal and Torres Strait Islander Peoples, as it closes the gap between Indigenous and non-Indigenous Australians. Self-determination can be achieved by reducing the inequality gap regarding healthcare, land rights, education, and the justice system (Reid, 2019).

On a global scale, the concept of self-determination is addressed by the United Nation Declaration on the Rights of Indigenous Peoples (UNDRIP), a legally binding international document that

sets out a range of rights for Indigenous peoples (United Nations General Assembly, 2007). Australia initially voted against the UNDRIP in 2007, stating that it would be in conflict with their domestic laws and would disrupt the balance achieved through the existing laws regarding land rights, leading to even more conflict (Dorfmann, 2015). In 2009, Australia changed its position by adopting the UNDRIP, however, up until this day, the UNDRIP has not been legally implemented in Australia (Senate Legal and Constitutional Affairs References Committee, 2022).

2.4 The Logic of Elimination

The elimination of Aboriginal and Torres Strait Islander peoples in Australia is directly demonstrated by the Indigenous massacres in the 18th, 19th, and 20th centuries as part of the Frontier Wars. However, physical violence is not always a necessary element of elimination (Saunders, 2018). The separation of Indigenous people from their land, communities, and Aboriginality, to erase Aboriginal culture and diminish their political system, can also be seen as a form of elimination (Wolfe, 2006). This idea of settler colonialism is captured in Patrick Wolfe's concept of 'The Logic of Elimination,' widely discussed in settler colonialism studies. This section will use this concept to illustrate how settler colonialism is still present in Australia and how this can be used to argue that Australia is not a decolonized state (Wolfe, 2006).

Patrick Wolfe's 'Logic of Elimination' concept highlights that settler colonialism is a structural phenomenon rather than a singular event. This means that settler colonialism is a process with an end goal, the full replacement of Indigenous peoples by the settler society. This is referred to as 'colonial completion.' According to Wolfe, elimination involves the systematic eradication of Indigenous populations and their cultures through not only violent means such as dispossession and genocide but also a range of social, cultural, and political strategies aimed at assimilating Indigenous people into the dominant settler society (Wolfe, 2006). An example of this is The Indian Boarding School system in the

United States of America, where the colonizers tried to assimilate Indigenous children into the dominant settler society by prohibiting them from speaking their language and practicing their culture (Feir, 2016). Wolfe states settler colonialism is based on the contest and need for land. Therefore, anyone obstructing the acquisition of land must be ‘eliminated.’ This does not necessarily refer to genocide but rather to the erasure of Indigenous resistance. The main approach to elimination in Australia is assimilating Aboriginal peoples.

Indigenous people in Australia have been stereotyped and referred to as remote Aboriginal societies,” savages,” and ‘uncivilized’ (Strakosch & Macoun, 2012). According to this Westernised viewpoint, Aboriginal peoples are underdeveloped and deviate from the norms of modern Western culture. A modern society is defined by capitalism, sophisticated economic and political institutions, individualism, and technical innovation. In contrast, a traditional society is defined by ritual, tradition, collectivity, nature, and a strong sense of community (Germond-Duret, 2016). As a component of Western culture, liberalism tends to place these traditional communities in the past. Instead of perceiving traditional communities as an alternative economic and political paradigm, they regard them as hostile and damaging to the economic system (Germond-Duret, 2016).

In this regard, settler colonialism has attempted to ‘civilize’ and modify Aboriginal culture, traditions, and way of life in order to fit into settler society. Assimilation has been the primary method of modifying Aboriginal communities. Aboriginal peoples are often compelled into settler society, which forces them to separate from their Aboriginal identity (Wolfe, 2006). An example of this is the systematic removal of children from their homes by the Australian Government, referred to as ‘The Stolen Generation.’ Australian policy at the beginning of the 20th century allowed for the legal removal of Aboriginal children from their families and community in order to remove them from their Aboriginal identity. This was justified under the pretense of ‘protection,’ suggesting that the children were not safe with their own families (Van Krieken, 2003).

Assimilation of Aboriginal people into white society still exists in modern Australia, as evidenced by the erasure of languages and the ongoing removal of indigenous people from the land. Additionally, Aboriginal children are overrepresented in out-of-home care, and the percentages have never been higher than now (Family Matters, 2021). This implies that settler colonialism has prevented Indigenous communities from flourishing up to the present day. However, on the symbolic level, settler colonialism in Australia tends to recuperate Aboriginal culture and identity to emphasize its difference from the settler society. This is often used as a method of reconciliation, aiming to publicly demonstrate the government's efforts to acknowledge Aboriginal peoples as traditional owners of the land and reconcile past injustices. As I already mentioned, this is purely symbolic and does not ensure the practical implementation of native rights (Wolfe, 2006).

3. The Mining Industry and Settler Colonialism in Australia

This section will give an overview of the historical and contemporary situation of the mining industry following the colonization of Australia. I have chosen the mining industry as a specific example since it clearly demonstrates the issues that exist in Australian law and policies that illustrate the continuation of settler colonialism in Australia, destroying significant cultural and spiritual sites, clearly showing the lack of rights of Aboriginal peoples. The section will discuss the settler's perspective of land and how this has shaped the colonial landscape of Australia. The significant negative impacts the mining industry has on Indigenous people in Australia will be illustrated to show the scope of the problem Aboriginal peoples face today.

3.1 Overview of the Mining Industry

In discussing the concept of 'Terra Nullius,' I have already illustrated the way the settlers viewed Australia and its native inhabitants. This showed the distinct relationship between how the settlers viewed

the land compared to Aboriginal people. The former views it mainly as a source of capital, while the latter attributes spiritual and cultural elements to the land. At the start of colonization in 1788, the 'Terra Nullius' concept justified the settlers in acquiring the land and, therefore, extracting its natural resources. This initiated the development of mining activities in Australia (Howlett & Lawrence, 2019).

An often-used argument favoring the mining industry is the economic growth and benefits it brings to the country, as the mining sector plays an important role in creating employment opportunities and developing social projects, thereby making positive contributions to economic progress. For instance, the mining sector offers 6652 Aboriginal Australians employment, accounting for 3.8% of the mining workforce (Australian Bureau of Statistics, 2016). However, if there are positive impacts associated with the mining industry, they do not cancel out the significant adverse effects the industry is responsible for (Bainton, 2020). These negative effects will be elaborated on by discussing the different levels of this damage to the lives of Aboriginal peoples.

The mining industry, and specifically, the activities related to the extraction and processing of minerals, can be highly damaging to the physical environment (Hilson, 2002). Since Aboriginal cultural heritage follows from their connection to Country and is highly connected to the land, advancements within this industry can cause significant detriment to the Aboriginal people, often leading to irreversible damage to their cultural heritage and Aboriginal identity (Bainton, 2020). Their cultural heritage consists of physical embodiments, such as burial sites and cave paintings, but also sacred sites that are less tangible, as their significance is more spiritual. Therefore, it is evident that physically destroying both these materialistic and spiritual aspects by mining operations, such as bulldozing, influences the lives of Aboriginal peoples (O'Faircheallaigh, 2008).

However, it is important to stress that this damage has deeper levels. For instance, cultural sites that lie close to or fall within specific communities are important to communities thousands of kilometers away as well. This is because individual sites are often part of immense site complexes that explain the

Aboriginal story of origin that is part of their shared cultural heritage. These so-called 'dreaming tracks' cover large parts of Australia, and damage to any of these sites affects a large number of different communities, showing the scope of the problem (O'Faircheallaigh, 2008).

Furthermore, sites are not subjected to purely physical damage, as damage can occur in other forms. Mining operations often establish roads and improve the accessibility to these cultural sites, leading to increased inappropriate visitation. This includes employees moving to the mining area and establishing shops and other small businesses, influencing the local demographics (Hilson, 2002). This means that people (tourists, miners, and their families) who are unaware of these sites' cultural and spiritual meaning interact with the sacred sites, thereby affecting the Aboriginal peoples and causing substantial damage (O'Faircheallaigh, 2008).

Another way the mining industry affects Aboriginal people's cultural heritage is by forcing them to release secret information concerning sacred sites. According to Aboriginal peoples' laws and customs, sharing confidential information regarding specific sites with the public is prohibited. But releasing information on these sacred sites is often the only way of protecting them, as otherwise, mining companies will be able to use the land for mining purposes, destroying the sites. On the other hand, if they keep the site's existence or importance a secret and later reveal the information to show a site's significance to prevent damage, they may be accused of fabricating or exaggerating this significance (O'Faircheallaigh, 2008). This often raises conflict between mining companies and Aboriginal communities.

In addition, Aboriginal communities are forced to move away from their homelands due to the establishment and expansion of mining projects, as these mining activities are given priority to have access to the land and use it for economic outcomes (Wetzlmaier, 2012). Apart from removing Aboriginal peoples from their homelands, mining activities decrease the quality of the surrounding land and waterways, restricting access to clean water and land. This negatively impacts the health and agricultural

profits of indigenous communities that are part of their culture (Birch, 2016). For example, the health of Aboriginal and Torres Strait Islander people in the Kakadu region in the North of Australia has been put at risk due to the mining activities from the proximate uranium mine (Tatz et al., 2006). The mine has been polluting the area since the 1980s through continuous leakages and contaminations caused by mining operations. Accordingly, the health of Aboriginal communities in the area has been affected, as is shown by the incidence of cancer in this area by 90 percent (Tatz et al., 2006).

The fear of these possible negative impacts is a key factor that triggers indigenous resistance towards these mining activities in order to protect their culture and Aboriginal identity (O'Faircheallaigh, 2008). In the next section, I will explain the possibilities for Aboriginal peoples to reclaim their land and obstruct mining operations. I will discuss the Native Title legislation and how this is intended to support Aboriginal communities in protecting their ancestral lands but is often working against them.

3.2 Native Title

As I have already discussed, 'Connection to Country' explains the importance of land to Aboriginal and Torres Strait Islander Peoples and is the key element of their cultural (Aboriginal) identity. Therefore, regaining the traditional land is a significant step towards self-determination for Aboriginal and Torres Strait Islander people, as Reid (2009) stated. All obstacles that prevent the native population from gaining self-determination and sovereignty can be seen as a form of colonialism, as discussed earlier. This section will discuss how Native Title should work towards self-determination, but often hinders the path to Aboriginal self-determination.

Native Title is the recognition of Aboriginal and Torres Strait Islander peoples' rights and interests in the land and waterways that derive from their traditional laws and customs, as set out in Australian law (Reid, 2019). It is a legal mechanism for Aboriginal and Torres Strait Islander people to regain rights to parts of their traditional lands. It gives them the opportunity to prove in court that they

have an ancient entitlement to the land. This includes access to the land for living and cultural purposes such as hunting, fishing, and traditional ceremonies.

However, the Native Title Act of 1993 has been heavily criticized due to the complex and lengthy legal process Indigenous people must undergo to gain Native Title. This process consists of proving their cultural connection to the land since European colonization and requires extensive documentation to prove this connection. Gathering and acquiring this information is often expensive and requires specialized knowledge, further obstructing the claim of Native Title. Additionally, the claim to Native Title is resolved in court rather than through negotiation, which complicates and prolongs the process even more, leading to cases that last several years (Yu, 1996; Reid, 2019).

Furthermore, Native Title does not secure the exclusive right to the land, as there exist two forms of Native Title: non-exclusive possession and exclusive possession (Altman & Markham, 2015). The former indicates that the Native Title rights include access to the land but other parties, such as the government and mining companies, are also entitled to the land. This means that Aboriginal and Torres Strait Islander Peoples cannot exercise complete ownership over the land, as they cannot solely decide what happens with the land (Altman & Markham, 2015). This is especially an issue when there are opposite ideas over the use of the land, as the Aboriginal peoples are often overthrown by the state and mining companies, resulting in the destruction of Aboriginal sites (Altman & Markham, 2015; Howlett & Lawrence, 2019).

Proving the connection to the land is complicated, expensive, and often not achievable, and it often results in the rejection of exclusive possession and the granting of non-exclusive possession instead, making it the most common form of Native Title. This is detrimental to the development of self-determination of Aboriginal and Torres Strait Islander Peoples. It indicates the contemporary existence of settler colonialism in the Native Title Act, which is, until this day, enacted in Australian Law.

The power of Native Title has been even more weakened by the Native Title Amendment Act of 1998, transforming it into a tool that almost has no significant practical importance. The mining industry has played a prominent role in securing these changes in the Amendment Act, as mining companies viewed Native Title as a hindrance to mining explorations and expansions. This is because the enactment of Native Title was causing a delay in their mining operations and increased their investors' uncertainty (Lavelle, 2001). To demonstrate this, George Savell, chief executive of the Association of Mining and Exploration Companies (AMEC) at the time, responded to the Native Title Act by claiming that 'Native Title is the biggest disaster for mining investment that has even been visited upon us in this country' (cited in Lavelle, 2001).

An example that illustrates the issues within Native Title is that of the Indian mining company Adani Group, which planned to build a massive coal mine in Queensland, Australia, in 2017. The negative outcome of the Native Title case in federal court regarding the mining project has caused significant issues in establishing this coal mine. However, the prime minister at the time, Malcolm Turnbull, assured the company that this decision would not stop them from realizing the project. In order for the Adani Group to continue with their project, new legislation was drafted to evade the Native Title issue. Moreover, the government stated it be willing to fund the project with one billion Australian dollars to establish a railway as part of the project. This example demonstrates how easily Native Title is overthrown due to its weakness and biased government interests (Chan & Safi, 2018).

Even though new amendments, such as the Native Title Amendment Act of 2007, have tried to address some of the raised concerns regarding the complicated process of granting Native Title, the struggle of regaining land through Native Title remains a key problem within Australian Law. Reid (2019) states that, therefore, we cannot claim the Native Title Act to have contributed to the path toward self-determination, as it has instead caused significant hindrances within the land rights movement (Reid,

2019). The Native Title Act and its implications can thus be used as an argument to support the thesis statement that Australia is not a decolonized state.

3.3 Case Studies

Lastly, I will provide detailed evidence in the following section to make the argument that I am reinforcing more tangible. I will discuss two case studies within the Pilbara region and one in the Kimberley region that exemplify the conflict between mining companies, the state, and Aboriginal peoples. This will help illustrate the Aboriginal communities' specific impacts and how this contributes to the claim that Australia is not a decolonized state.

The Pilbara region

Major mining operations started to operate in the Pilbara in the 1960s when large deposits of iron ore were discovered. It is considered one of the world's most important iron ore regions and is constantly expanding to the detriment of the local Aboriginal communities. This subsection will discuss two specific examples that illustrate the negative impacts of mining in this region: the destruction of the Juukan Gorge Rock and the multiple sites destroyed by the multinational mining company BHP.

The destruction of the Juukan Gorge Rock in 2020 exemplifies the vast damage the multinational mining company Rio Tinto has caused in Australia. This has highly affected the Puutu Kunti Kurrama and Pinikura Peoples (PKKP), the Indigenous people within that area. This case stands out since Rio Tinto opposed their guidelines and management regarding the land's traditional owners and cultural heritage (Bradshaw et al., 2011).

The 46,000-year-old Juukan Gorge rock shelters lie within the Pilbara region in Western Australia and are directly linked to the Traditional Owners of the Land, the PKKP Peoples. This link is justified by archeological evidence found in 2014, such as grindstone tools and plaited hair (from a hair belt)

belonging to ancestors of the PPKP Peoples. Besides, the area is of great spiritual importance as it shelters a sacred rock pool that is seen as a place where the ‘elders’ (the spirits of the ancestors) have found their resting place (Oliveri et al., 2022).

Rio Tinto was fully aware of the cultural and spiritual significance of the area, according to their own rapport, but decided to expand their Brockman 4 iron ore mine anyway by using explosives. This resulted in the destruction and damage of many of these cultural and spiritual rock shelters, triggering widespread outrage and distress among Aboriginal peoples. The following statement from Burchell Hayes, one of the traditional owners of the land and part of the PPKP Peoples, conveys the hurt they felt in response to the incident:

‘Myself, my family, our elders, and our ancestors are in mourning at the desecration of our sacred site. This is a part of our land that we are deeply connected to and which is an important feature of our future. Healing is slow and painful and will not come easily. Our trust in the system and our partners has been broken completely. I hope that some good can come out of our pain as we all work to build a new future for ourselves and future generations.’ (Burchell Hayes, cited in Oliveri et al., 2022)

The most disturbing about the situation is Rio Tinto’s contradicting statements and reports in which they claim to strive towards indigenous inclusion in the decision-making process and value indigenous rights and interests regarding mining operations (Bradshaw et al., 2011). Despite these statements, they were given legal permission to blow up Juukan Gorge in order to expand (Oliveri et al., 2022). This shows the weakness of legislation and agreements regarding mining operations and the inferior place of Aboriginal peoples in this process.

Another example from the Pilbara region is the conflict between mining giant BHP and the Banjima people. In 2020, BHP confirmed to start with the expansion of their South Flank iron-ore mine

after they got ministerial consent. The project was positioned to destroy a minimum of 40 and up to 86 cultural sites that are of high cultural value to the Banjima people. BHP was aware of the significant adverse impacts this would have on the traditional owners of the land and their firm opposition to the plan, as follows from their report of 2019. Their report also confirms the Banjima people's historical connection to the sites, as evidenced by the area's cave paintings and cultural artifacts. The project got approval despite the clear evidence of cultural significance and strong opposition. BHP states that the concerns raised by the Banjima people were taken into account in the decision-making process but that the destruction of the 86 cultural sites was unavoidable for their plan to be executed (Allam & Wahlquist, 2020; Allam, 2020).

Since the project received permission from the minister under section 18 of the Western Australian Aboriginal Heritage Act, the Banjima people have no legal right to obstruct BHP's plan and protect the sites. This Act allows mining companies and other organizations to receive permission to damage cultural heritage sites without the approval of the Traditional Owners of the land (Aboriginal Cultural Heritage Act, 2021). Consent is given by assessing the potential impact of the activities, both negative and positive. The government has said it wants to adjust Section 18 of the Western Australian Aboriginal Heritage Act in order to give Aboriginal people more rights. However, up until this day, there has yet to be action taken to secure these changes (Allam & Wahlquist, 2020).

Furthermore, in this case, Native Title is granted in the form of non-exclusive possession, requiring BHP and the Banjima people to make agreements. These agreements do not secure the protection of cultural heritage but instead include financial compensation for the loss and damage of this cultural heritage and the promise to minimize environmental and cultural impact. However, in most cases, these agreements favor mining companies and cause Aboriginal people to renounce their claims. The agreements between the Banjima people and BHP prevent the Banjima people from taking public action and raising their concerns in return for financial benefits (Allam & Wahlquist, 2020; Allam, 2020).

These examples illustrate Aboriginal people's limited influence on decisions regarding the use of the land and how legislation often works against them rather than benefitting them. The conflicts highlight the weakness of Native Title and how this does not equalize the 'regaining of the land to its traditional owners,' as it still is subjected to decisions of superior organizations. Additionally, the examples show the physical impact mining expansions have on cultural sites, such as blowing up rock formations and sites of spiritual importance that affect their Aboriginal culture and identity.

The Kimberley region

The Kimberley region in Western Australia is home to several Aboriginal communities that comprise a third of this region's population. The land in the Kimberley is known for its rich mineral resources, including diamonds, bauxite, and gas (O'Faircheallaigh, 2013). Resource extraction started to develop in the 1970s in this region as, according to the 'Terra Nullius' concept, the land did not belong to the Aboriginal peoples and was free to exploit by the settlers. The Aboriginal peoples have undergone threats to their land and cultural heritage since the establishment of these mining operations. They have been removed from their traditional lands, disconnected from their culture, and their land has been polluted and damaged, endangering their traditional way of life.

The contemporary situation has improved to some extent with the establishment of Native Title and increased mining agreements. However, the Aboriginal peoples are still fighting for their lands to protect their cultural heritage and minimize the damage caused by mining activities. Even though half of the land in the Kimberley is acknowledged as Native Title land, this does not allow the Aboriginals peoples to protect their ancestral land from mining companies. Native Title does not allow them to stop mining companies from commercial development legally. Instead, it gives them a 'right to negotiate,' aiming to minimize damage rather than complete obstruction (O'Faircheallaigh, 2013).

An example that illustrates this continuous struggle, rooted in settler colonialism, is the Kimberley LNG (liquified natural gas) project that received approval in 2011. In the case of the LNG project, a single location had to be assigned where all the gas from the Browse Basin would be collected and processed, the so-called LNG Precinct. Months of negotiations followed between the traditional owners of the land, mining companies, and state authorities in order to find a location that would endure the least environmental and cultural impact. However, these promising developments were disrupted by the election of the new premier Colin Barnett, who stated that it was ridiculous to allow Aboriginal people to have that much power over the commercial development of the mining industry. Barnett stated that if traditional owners failed to reach an agreement with the state on the placement of the LNG Precinct at James Price Point within three months, compulsory acquisition powers under the Western Australia Public Works Act of 1902 would be utilized to acquire the land. As a result, 3500 hectares of Native Title land and water were conceded to be used for mining purposes. In order to compensate for the relinquished land, the Aboriginal peoples would receive funding and employment opportunities at the LNG Project (O'Faircheallaigh, 2013). However, compensation in terms of money does not weigh up to the cultural significance of the land for Aboriginal peoples (Hilson, 2002).

This example again illustrates the government's superior power and favor towards mining companies and economic profit. Besides, the compensation offered by the government does not weigh up to the lost land and cultural and spiritual damage felt by the Aboriginal peoples. It illustrates that the Aboriginal population is dominated by the majority settler population. This is because when the settler population elects a right-wing government, that government will override Native Title. The laws designed to protect Aboriginal peoples are weak and open to abuse depending on whatever government happens to be in power at the time.

To conclude, all three examples show the severity of the problem the mining industry is causing to Aboriginal peoples. The mining expansions cause physical harm to the environment, destroying rock formations, polluting waterways, and erasing cultural ancestral sites. This, in turn, affects the lives of Aboriginal peoples in all of Australia, as a lot of the significant cultural sites, such as Juukan Gorge, are part of complex spiritual systems referred to as 'dreaming tracks' (Fredericks, 2021). Additionally, legislation intended to support the protection of the Aboriginal cultural heritage, such as Native Title, is considered weak, as it is quickly overthrown by mining companies and the government, and it is difficult for Aboriginal people to prove their connection to the land. Analyzing the conflict between Aboriginal peoples and the mining industry has shown that Aboriginal peoples have not yet gained self-determination, as their rights are still inferior to those of the mining companies and they cannot meet their social, economic, and cultural needs.

4. Conclusion

In this paper, I have argued that Australia cannot be considered a decolonized state by showing how the mining industry is currently contributing to the ongoing process of settler colonialism. I have analyzed the different forms of colonialism and showed how this resulted in a difference in the decolonization process in extractive and settler colonies. This has demonstrated why some countries can be seen as decolonized and Australia, as a settler colony, cannot.

Furthermore, I have discussed the concept of the 'Logic of Elimination' by Patrick Wolfe, which shows that the nature of settler colonialism and its initial goal of 'full completion' is in contrast with the decolonization process. He states that settler colonialism aims to fully replace the native population by assimilating them into white settler society, separating them from their Aboriginal culture and identity. This goes against the goal of decolonization, reversing colonization, and granting independence and self-determination to the Indigenous population.

Additionally, in order to fully understand how the mining industry is contributing to contemporary settler colonialism, I have discussed the value of land to both the colonizers and the colonized and how land is the essential feature of settler colonialism, as it causes conflict between the settler and the native population. In Australia, the colonizers attributed the land as 'Terra Nullius,' stating that the land belonged to no one and was theirs to acquire and exploit. This was in deep conflict with the Aboriginal peoples, as the land is considered part of their culture and identity.

Today, the mining industry continues to exploit and destroy ancestral lands that are of high spiritual and cultural importance to Aboriginal peoples. This is negatively affecting their lives and obstructing their path toward self-determination, as they are unable to meet their social, economic, and cultural needs. I have shown through examples that the Native Title legislation, which is intended to support Aboriginal land reclamation, is considered weak and is often benefitting the mining companies

rather than the Aboriginal communities. Therefore, the mining industry is counteracting the process of self-determination and perpetuating settler colonialism.

Lastly, there are some implications that can be drawn from this paper. Reconciliation is often regarded as part of the decolonization process that falls short of genuinely improving the rights of Aboriginal people. The discourse surrounding reconciliation in Australia suggests that reconciliation is mostly symbolic and lacks practical implementation. It is shown in this dissertation that there are several issues within Australian Law and the legislation around Native Title, as the Aboriginal peoples are often marginalized and overthrown in court. It is not sufficient to use reconciliation strategies as consider it part of the decolonization process in order to address historical injustices, and actual implementation is needed. Among these measures is the recognition and inclusion of Aboriginal peoples in the Australian Constitution.

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