

## Case 14: The Dakota Access Pipeline

The Dakota Access Pipeline transports crude oil from North Dakota to a storage facility in Illinois.<sup>133</sup> The portion of the pipeline that goes under the Missouri River in North Dakota has drawn large-scale protests from indigenous rights advocates and environmentalists.<sup>134</sup> In light of these protests, President Obama halted the construction of the segment of the Dakota Access Pipeline that was deemed too close to the water supply of the Standing Rock Sioux tribe. In 2017, despite protests, Donald Trump changed his predecessor's policies: construction resumed on the pipeline, and the transmission of oil began through the Great Plains.<sup>135</sup>

Advocates of the pipeline claim that focusing on domestic production of oil is in America's national interest, for the United States relies on foreign imports to meet its growing demand for fossil fuels.<sup>136</sup> Sources of imported oil for domestic consumption include Venezuela, Saudi Arabia, and other OPEC nations. However, there may be moral benefits to minimizing trading with partners like Saudi Arabia. Put differently, by increasing North American oil independence, the pipeline might reduce complicity with and accommodation of foreign human rights violators. Moreover, transporting domestically produced oil by pipeline is “cost-effective, safer and more environmentally responsible...than other modes of transportation, including rail or truck.”<sup>137</sup> Supporters also point out that the construction and maintenance of the

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<sup>133</sup> “Dakota Access Pipeline Facts,” *Dakota Access Pipeline Facts*, September 8, 2017, <https://daplpipelinefacts.com>.

<sup>134</sup> Rebecca Hersher, “Trump's Move on Keystone XL, Dakota Access Outrages Activists,” *NPR*, January 24, 2017, <http://www.npr.org/sections/thetwo-way/2017/01/24/511411653/trumps-move-on-keystone-xl-dakota-access-outrages-activists>.

<sup>135</sup> Chelsea Watkins, “Standing Rock Sioux Tribe Chairman Responds to Oil in DAPL,” *Standing Rock Sioux Tribe*, March 27, 2017, [https://www.standingrock.org/sites/default/files/uploads/press\\_releases/standing\\_rock\\_sioux\\_tribe\\_chairman\\_responds\\_to\\_oil\\_in\\_dapl.pdf](https://www.standingrock.org/sites/default/files/uploads/press_releases/standing_rock_sioux_tribe_chairman_responds_to_oil_in_dapl.pdf).

<sup>136</sup> Craig Stevens, “On the Dakota Access Pipeline, Let's Stick to the Facts,” *The Hill*, September 21, 2016, <http://thehill.com/blogs/congress-blog/energy-environment/296926-on-the-dakota-access-pipeline-lets-stick-to-the-facts>.

<sup>137</sup> “Dakota Access Pipeline Facts.”

pipeline has created thousands of jobs, and “has brought hundreds of millions of dollars in investment in heavy equipment” to North Dakota.<sup>138</sup>

Unfortunately, the construction of the Dakota Access Pipeline may itself have occasioned human rights violations. The Standing Rock Sioux Tribe maintains that the land through which the Dakota Access Pipeline passes was included in an 1853 treaty between several tribes and the U.S. Federal Government. According to Standing Rock spokesperson Joye Braun, “[w]e have never ceded this land. If the Dakota Access Pipeline can go through and claim eminent domain on landowners and Native peoples on their own land, then we as sovereign nations can then declare eminent domain on our own aboriginal homeland.”<sup>139</sup>

In addition to their property rights claim, the Standing Rock Sioux have joined with environmental activist groups to oppose the pipeline based on the risks it poses to the land and its inhabitants. All oil pipelines have the potential for leaks, and during the past two decades, millions of gallons of oil have spilled from such pipelines.<sup>140</sup>

According to Standing Rock spokesperson David Archambault, “[o]ur tribe is actively working to move away from fossil fuels and we continue to battle those who disregard our efforts to protect our water and lands.”<sup>141</sup>

Case from the 2017 Regional Intercollegiate Ethics Bowl.  
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<sup>138</sup> Ibid.

<sup>139</sup> Terry Wade and Ernest Scheyder, "Dakota Access Pipeline Opponents Occupy Land, Citing 1851 Treaty," *Reuters*, October 24, 2016, <http://www.reuters.com/article/us-usa-pipeline-dakotaaccess-idUSKCN12O2FN>.

<sup>140</sup> "Pipeline Accident Reports," *National Transportation Safety Board*, August 9, 2017, <https://www.nts.gov/investigations/AccidentReports/Pages/pipeline.aspx>.

<sup>141</sup> "Native Nations Standing Together for the Paris Climate Change Agreement," *Standing Rock Sioux Tribe*, June 3, 2017, <https://www.standingrock.org/content/native-nations-standing-together-paris-climate-change-agreement>.