

“You people have your stories; we have ours”: a narrative analysis of land use in  
settler Canada



“You people have your stories; we have ours”: a narrative analysis of land use in  
settler Canada



BY ANTHONY ROBERT JOSEPH GRACEY, B.COMM, B.A., M.A.

A Thesis Submitted to the School of Graduate Studies in Partial Fulfillment of the  
Requirements for the Degree of a Doctor of Philosophy

McMaster University © Copyright by Anthony Gracey, June 2016

McMaster University DOCTOR OF PHILOSOPHY (2016) Hamilton, Ontario

(Sociology)

TITLE: “You people have your stories; we have ours”: a narrative analysis of land use in settler Canada.

AUTHOR: Anthony Robert Joseph Gracey, B.Comm, B.A., M.A. (Acadia University)

SUPERVISOR: Professor Robert Storey NUMBER OF PAGES: 265.

Abstract

This dissertation uses storytelling to examine the nature of settler colonial relations (SCRs) in Canada. It examines testimonies about land use in settler Canada from the Royal Commission on Aboriginal Peoples (RCAP). Utilizing a combined Tribal Critical Race Theory (TCRT) and Critical Race Theory (CRT), this study compares testimonies about land use from the perspective of Indigenous peoples and non-Indigenous peoples and asks the question what, if anything, does this comparison tell us about settler Canada? The comparison reveals how settler Canada depends on the liberal racialization of Indigenous peoples' national identity. To undertake this comparison I narrated the RCAP testimonies into small stories and analyzed their morals, or the point of these stories, using dialogical narrative analysis. The narrated stories laid bare a stark contrast in the way Indigenous peoples spoke of their social relations with the land and the way non-indigenous Canadians spoke of theirs. This study demonstrates how the narrated testimonies from Canadians, or what are referred to as cultural narratives in the language of CRT, are about land use that racialized the national identity of Indigenous peoples through the discourse of the liberal order, whereas the narrated testimonies from Indigenous peoples, considered as counter stories in this study, contradict the cultural narratives and reveal a national identity rooted in language, spirituality, the Creator, and the consequences for Indigenous peoples from settler colonial relations. The narrated counter stories in this study not only contradict the cultural narratives from settlers by describing the consequences of settler colonial relations but they also provide a blueprint in a narrative sense to decolonize land use in contemporary settler Canada.

### Acknowledgements

First and foremost I would like to thank my family, my parents, Donald and Sally, my sisters, Kirsty, Lisa, and Charity, my brothers, Richard and Marc, and my nieces, Olivia, Grace, and Samanth, and all my aunties, uncles, cousins and now departed grandparents and ancestors whose spirits still guide me. Your support and your stories have carried me all the way through to the end and I am forever grateful. If only everyone was fortunate enough to have such a supportive network of loved ones to take them through life's more challenging moments. Secondly, I want to thank my past mentors, Jim Sacouman, Barb Moore, Tony Thompson, Jim Brittain, Zelda Abramson, Karen Turner and the entire sociology department at Acadia University who gave me the confidence and the heart to get this far. Thirdly, I would like to thank the sociology administrative staff at McMaster University, Jackie, Corinne, and Olga, for their unending effort to support us. Finally, and most certainly not least, I would like to thank my current mentors, Robert Storey, Victor Satzewich, and Dawn Martin-Hill for your guidance and help through the rigours of the program. Academically I owe you all so much. My thinking and writing is better for knowing you all. Personally I owe you all the anti-colonial consciousness I now take out into the world and a devotion to decolonizing praxis upon which it will rest.



Table of Contents

1. Investigating the settler identity – an introduction .....	1
I. RCAP, racialization, and the settler identity .....	2
II. Dialogical narrative analysis of RCAP testimonies – the methodology behind this study.....	4
III. Contributing to the settler conceptual debate .....	10
IV. TCRT and CRT – a complementary theoretical approach.....	11
V. My research story .....	12
VI. Analyzing the morals of the stories .....	15
VII. Decolonization - why this research was undertaken .....	16
2. A decolonising literature review .....	18
VIII. A brief history of Royal Commissions.....	19
IX. Recapping RCAP.....	22
X. Testimony’s sociological mettle .....	28
XI. Debating the nature of settler Canada .....	32
3. Methodology, or decolonizing through storytelling .....	50
XII. Why study testimonies? .....	51
XIII. The value and risk of studying the RCAP testimonies .....	55
XIV. Sociologically speaking, what’s a story? .....	66
XV. The stories settlers tell .....	69
XVI. Linking a combined TCRT and CRT approach with the liberal order ....	73
4. An analysis of cultural stories .....	79
Land Interests:	
XVII. Fenton Scott, Prospectors and Developers Association of Canada .....	80
XVIII. Bob Neale, Nicola Stock Breeders Association .....	85
XIX. Cor Vandermeulen, British Columbia Federation of Agriculture .....	90
Fishing Interests:	
XX. Andy Von Busse, the Alberta Fish and Game Association .....	93
XXI. Joy Thorkelson, United Fishermen and Allied Workers Union .....	100
XXII. Dennis Brown, United Fishermen and Allied Workers Union.....	102
XXIII. John Jamieson, Prince Edward Island Fishermen’s Association .....	108
XXIV. Bob McKamey and Phil Eidsvik, BC Fisheries Survival Coalition .....	112

Other Interests:

XXV. Dick Martin, Guy Adam, Canadian Labour Congress .....118  
XXVI. Sandy Baumgartner, Canadian Wildlife Federation .....123

5. An analysis of counter stories .....129

Treaty 4:

XXVII. Chief Calvin McArthur (Pheasant Rump Nakota), Chief Wayne Goodwill  
(Standing Buffalo Dakota), Chief Ken Goodwill (White Cap), Dakota nation  
Chiefs .....131

Treaty 5:

XXVIII. Sandra Delaronde, President, Métis Women of Manitoba.....136  
XXXIV. Ila Bussidor, Sayisi Dene nation .....140

Treaty 6:

XXX. Brian Lee, Carol Wildcat, Jim Minde, Ermineskin nation .....145

Treaty 8:

XXXI. Chief Bernard Meneen, Narcisse Moberly (Tallcree nation), Chief Johnson  
Sewepegaham (Little Red River nation), Chief Harry Chonkolay (Dene Tha  
nation), Francis Meneen (Tallcree nation), Gabe Meneen (Tallcree nation), Cliff  
Kazony (Boyer River nation), and Harold Cardinal, High Level nation (Tribal  
Council) .....150

Wampum Agreements:

XXXII. Three Figure Wampum – Algonquin nation - Jean-Maurice Matchewan  
(Lac Barrière), Harry St. Denis (Wolf Lake), Carol McBride (Timiskaming)  
.....164  
XXXIII. Two Row Wampum – Haudenosaunee Confederacy - Stuart Myiow  
Senior, Stuart Myiow Junior, Stuart Myiow Longhouse  
.....172

Peace and Friendship Treaties:

XXXIV. Alex Christmas, Union of Nova Scotia Indians .....184

No Treaty:

XXXV. Ernie Crey, Chief Ken Mallory, Tzeachten nation, Chief Clarence Pennier, Chairman, Stó:lō Tribal Council, Lower Fraser Valley Fishing Authority.....	195
XXXVI. Sharon Venne, on behalf of Chief Bernard Ominyak, Lubicon Cree nation .....	201
XXXVII. Peter Penashue, President, Innu nation .....	208
6. Comparing the morals of the stories .....	215
XXXVIII. The sociology of story morals .....	216
XXXIX. The moral of the counter stories – inherent and treaty not equal rights ....	217
XL. The moral of the cultural stories – equal, not inherent and treaty rights .....	225
7. The moral of this story .....	242
XLI. The moral of the story of this study.....	242
XLII. The morals of racialized liberal order narratives .....	249
XLIII. The moral of my story – creating more moral tales .....	251
8. References .....	255

This dissertation was created in the territories of the Six Nations or Haudenosaunee Confederacy, a confederacy of nations along the Grand River in southern Ontario that includes the Cayuga, Mohawk, Onondaga, Seneca, Oneida, and Tuscarora nations, respectively. Originally when it was conceived it was intended to be about a direct action of land reclamation by some members of the Six Nations community. The reclamation was not undertaken by a social movement, however, as I had originally conceived it. It was actually an opening for settlers to change how they perceive the nation-to-nation relationship between the Six Nations and Canada (Amadahy and Lawrence 2009), as I found out during my initial fieldwork. Those early research experiences studying the reclamation taught me how I as a settler relate to the land by educating me about how settler Canada racializes the national identity of Indigenous peoples when it comes to relationships with the land whereas Indigenous peoples rely on language, stories, and spirituality to relate to the land. Six Nations at the reclamation site spoke of relating to the land through the Creator and the Great Law of Peace and forming relations with settler Canada based on the Two Row Wampum, a nation-to-nation framework between the Haudenosaunee Confederacy and European nations. Settlers from a nearby town protested the reclamation with signs, symbols, words, and actions in support of equal access to the land, perceiving the lack of arrests over the reclamation as proof of a two-tiered Canadian justice system that allowed the Six Nations ‘race’ according to settlers superior access to land that settlers did not possess. The Six Nations protestors believed they had sovereign control over those lands as a nation whereas the settler protestors perceived the reclamation as a violation of equal rights based on ‘race.’

## **I. RCAP, racialization, and the settler identity**

I came to see this equal rights rhetoric I first encountered during the reclamation as rooted in McKay's (2009) liberal order framework, and I saw the same liberal order discourse about Indigenous peoples and their collective rights used by settler protestors in the testimonies from the Royal Commission on Aboriginal Peoples (RCAP). Inherent and treaty rights pose big, collective problems for the individualized capitalism underlying land use in settler Canada, and the liberal order negates them both, or seems to at least try to, with equality of rights language that racializes the national identity of Indigenous peoples. This is the contribution my study sought to make in the academic sphere. It seeks to build upon the understanding of the settler identity and the process of racialization underlying it (Simpson, James, and Mack 2011) by demonstrating how settler colonial relations use what I call 'liberal racialization' to deny collective land use patterns based upon Indigenous peoples' gender relations, languages, stories, and spiritualities. In both the academic and the public sphere this study makes the case for a sociology-mediated exchange of stories for the purpose of decolonization that utilizes Indigenous knowledge systems as well as Western ones.

Guided by what I learned from the Six Nations and other Indigenous peoples who are the true experts when it comes to the process of settler Canada racializing their national identity, this study sheds theoretical light on this process of racialization by using stories to examine how liberal order racialization is evident in the nature of land use in settler Canada and how the land use stories of Indigenous peoples contradict this process by elucidating consequences of and alternatives to settler colonial relations. It sheds this light

by narratively examining testimonies about land use in settler Canada from the Royal Commission on Aboriginal Peoples (RCAP). Utilizing a narrative approach rooted in a combined Tribal Critical Race Theory (TCRT) and Critical Race Theory (CRT) framework, this study produces a unique understanding of a potential theoretical connection between the liberal order, racialization, and settler Canada by comparing testimonies about land use from the perspective of Indigenous peoples and non-Indigenous peoples. Even though historically there has been some disagreement between the theorists in both theoretical camps, I felt the combined TCRT and CRT approach was necessary because of TCRT's emphasis on the belief rooted in Indigenous knowledge systems that stories are theories and the assumption that colonialism permeates North American social relations. When these aspects of TCRT were fused with CRT's emphasis on constructing and comparing counter and cultural narratives, the combined framework felt like a solid approach I thought was capable of illuminating the nature of settler colonial relations in Canada.

To undertake this comparison I narrated twenty one of the RCAP testimonies into small stories and analyzed their morals, or the point of these small stories. The morals of these narrated stories laid bare a stark contrast in the way Indigenous peoples spoke of their social relations with the land and the way non-indigenous Canadians spoke of theirs. This study demonstrates how the narrated RCAP testimonies from Canadians, or what are referred to as cultural narratives in the language of CRT (Richardson 1990; Delgado 1989), are about land use that depends on the racialization of the national identity of Indigenous peoples through an equality of rights doctrine policed under one rule of law

discourse, one of the pillars of the liberal order (Manore 2010: 50; McKay 2009; Brownlie 2009). Whereas the morals of the narrated RCAP testimonies from Indigenous peoples, conceptualized as counter stories (Ewick and Sibley 2003; Aguirre 2000) in this study, contradict the morals of cultural narratives and reveal a national identity not rooted in settler constructed ideas about ‘race’ but instead based on an understanding of inherent and treaty rights premised on language, stories, spirituality, and the Creator. These counter narratives reveal the difficulties Indigenous peoples have experienced defending their ways of relating to the land because of the racialization of their national identities by settler Canada and contain the seeds to an anti-colonial blueprint for future decolonized social relations.

## **II. Dialogical narrative analysis of RCAP testimonies – this study’s methodology**

The contradiction between the narrated testimonies became evident after an extensive methodological process to collect and select RCAP testimonies about social relations with land or what is commonly referred to in this study as land use. It began by porting every single testimony from a compact disc containing RCAP reports, notes, and testimonies into word processing software that allowed me to develop multiple files in alphabetical order of RCAP testimonies. Once I collected roughly two hundred testimonies from Indigenous and non-Indigenous people alike that I felt spoke with some depth on land use in settler Canada, I further reviewed these two hundred testimonies collected during my initial run through the database and narrowed that list down even more into several dozen testimonies that I came to realize contained enough material for narrative purposes. Of course this process was shaped by my growing theoretical understanding of the TCRT,

CRT, and the liberal order bodies of literature. These few dozen testimonies I selected for further review were catalogued in a spreadsheet program to track their distribution. This small sample of testimonies were used to narrative a bundle of stories that for reasons I will explain later fell into the two categories of stories mentioned above that are common to critical race theory: counter and cultural narratives. Within both types of narratives, however, there was clear internal variation and this variation is captured nicely in the spreadsheet program. The distribution of the spreadsheet categories includes testimonies from the Algonquin nation, a wide array of nations located in the province of British Columbia, the Innu nation, the Inuit nation, the Inuvialuit nation, the Lakota and Dakota nations, respectively. Collected testimony about land use came from representatives of the Métis nation, the Mi'kmaw nation, organizations that represented Indigenous people in a variety of contexts in a myriad of different ways, as well as testimony from Indigenous representatives of the Robin Huron treaty, Treaty 3, Treaty 4, Treaty 5, Treaty 6, Treaty 7, Treaty 8, Treaty 9, 10, and Treaty 11. Finally, testimonies collected because of their counter colonial nature in describing land use included testimonies from representatives of the Treaty of Niagara, the Two Row Wampum, and testimonies from representatives of organizations that dealt specifically with the concerns of Indigenous women. The specific testimonies narrated for this study came from representatives with the Lower Fraser Valley Fishing Authority, the Algonquin nation, the Sayisi Dene nation, the Lubicon Cree nation, an organization that represents the Mi'kmaw nation in Nova Scotia, as well as representatives from the Haudenosaunne Confederacy, the Innu nation, and the Ermineskin nation.



The RCAP testimonies collected for this study given by settlers fell into three different categories. The first category consisted of testimonies that would only be considered cultural narratives once they were turned into stories. These narratives can take many forms as there are many different types of cultural narratives, but the ones focused on in this study have a connection to the liberal order, a project of rule that unified a disparate settler Canada from 1840 to the 1950s and left a legacy that shapes contemporary settler colonial relations (Manore 2010; McKay 2009; Brownlie 2009), which is clear in the narrative analysis to follow. The liberal order framework managed to do so by building cohesion through three primary discursive pillars with significant material consequences for social relations in settler Canada. Those pillars are private property, the absolute right of the autonomous individual, and equality of all individuals under the authority of one rule of law. The RCAP testimonies which demonstrated nothing but a strong belief in the liberal order's insistence on the equality of rights in settler Canada at the expense of erasing the existence of settler colonial relations were categorized as strictly cultural narratives. These narratives and the subsequent analysis of them appears in chapter 5, 6, and 7 respectively. The testimonies these narratives were built out of came from representatives of the Nicola Stock Breeder's Association in British Columbia, the PEI Fisherman's Association, Prospectors and Developers Association of Canada, the United Fishermen and Allied Workers Union, the British Columbia Federation of Agriculture, the Alberta Fish and Game Association, British Columbia Fisheries Survival Coalition, and the Canadian Wildlife Federation. Other settler testimonies were collected from representatives of organizations that included the Ontario Public Service Union,

Federation of Ontario Naturalists, the Canadian Labour Congress, Canada Parks and Recreation Society, the Canadian Association for Humane Trapping, Hay River, Alberta Chamber of Commerce, the city of Fort St. John, British Columbia, the official political opposition in the provincial house of assembly at the time, Central Okanagan Regional District, the Christian Reformed Church in Canada, and a corporation called Falcon Bridge. These testimonies were collected but they were not used in this study because they did not demonstrate the same strength in terms of in-depth discussion about relationships with the land as the testimonies narratively analyzed for this dissertation.

Some testimonies from settlers were not strictly cultural in nature. Indeed these testimonies were the second category of settler testimonies collected for this study. These testimonies functioned as a sort of cultural-counter hybrid. In other words, if these testimonies were to be narrated, which unfortunately due to space considerations they were not, they would demonstrate elements of both counter and cultural narratives as such narratives are theorized in this study. At times they would acknowledge the endemic nature of colonialism in Canada and at times they would not. Such testimonies came from representatives of the Saskatchewan Ministry of Indian Affairs, Ontario Hydro, the Town of Hay River, Alberta, the city of Fort St. John, British Columbia, the city of Thompson, Manitoba, and Yellowknife, Northwest Territories. Such testimonies might be considered hybrids because of the way they make recommendations to the RCAP commissioners, for example, that respect the nation-to-nation relation on the one hand while claiming the lands of Indigenous peoples must not be ‘sat on’ – it must be developed – on the other.

The third and final category of testimonies collected from settlers is based on testimonies that might be considered counter narratives if they were narrated and theory was drawn from these narrations, as per Brayboy (2005). These testimonies were regrettably not narrated in this study which is unfortunate given some of the ways such testimonies contradict the racialization of the national identity of Indigenous peoples in settler Canada. For example, testimony from an anti-racist and supposedly multicultural-supporting settler organization operating within Saskatoon city council at the time of RCAP testified rather effectively to the commissioners about the difference between national identity of Indigenous peoples and identities protected under multicultural legislation making a connection to the broader settler colonial relations endemic to Canada. Other settlers that provided what I considered testimonies falling under the umbrella of settler counter narratives included testimonies from representatives of the Phoenix Multicultural Society of Saskatchewan, the Task Force on Churches and Corporate Responsibility, United Steelworkers of America, the University of Lethbridge, Yukon Fish and Game Association, Citizens for Aboriginal Rights, the city of Merrit, British Columbia, an organization from Winnipeg, Manitoba known as the Community and Race Relations of Winnipeg, and the city of Edmonton.

Inspired by TCRT's understanding of stories as theories (Brayboy 2005) I undertook a process of building several of these RCAP testimonies from settlers and Indigenous peoples into short narratives about land use in settler Canada because I knew doing so would lead to useful theory development in regards to settler colonial relations. I use the term 'settler Canada' to honour another pillar of the TCRT framework: the assumption

that colonialism is endemic to North American social relations (Brayboy 2005). In this case when I say ‘endemic to settler Canada’ I am referring to the Canadian governments, culture, institutions, individuals, and social relations steeped in colonialism and irrationally privileging settler land use systems at the expense of Indigenous peoples’ land use with devastating consequences for Indigenous communities.

Narrative scholars refer to the methodology utilized in this study to narrate the RCAP testimonies into narratives as dialogical narrative analysis (DNA) (Frank 2012). DNA refers to the process of reading and re-reading testimony or other archival data, overlaying it with external yet related historical and theoretical sources, and then carving out some sort of story for further analysis. It was a process that took time and effort to develop as I learned how to give shape to the stories and draw theory from their morals. I have a feeling it is a process that could potentially continue indefinitely as each time I reviewed the supposedly finished stories derived from the RCAP testimonies I found myself re-writing something, or including some new source I recently found, and I believe such a process could continue *ad infinitum*. For the purpose of this analysis, however, it had to come to some conclusion. What I feel the methodological evolution of this study has convinced me of is the usefulness of storytelling, in this case storytelling driven by TCRT and CRT, as a form of analysis when trying to understand the nature of settler Canada and the means by which to decolonize it. I recognize the literature on ‘race’ has been seen by some scholars as incapable or at times unwilling to consider ‘race’ in relation to settler colonial relations (Amadahy et al. 2009; Brayboy 2005; Lawrence and Dua 2005), but I do believe my analysis demonstrates, as other scholars

believe (Simpson, James, and Mack 2011), that the process of racializing the national identity of Indigenous peoples is integral to understanding the settler Canadian context.

### **III. Contributing to the settler conceptual debate**

Reviewing the methodological component to this analysis of ‘racialization’ in the context of settler Canada will be undertaken in Chapter 3. Prior to that chapter, in Chapter 2, a literature review is undertaken to review the literature on settler colonial relations and to provide some context into the nature of the commission that gave rise to the testimonies analyzed for this study. This context helps the reader understand the nature of the narratives analyzed in this study which were created out of these RCAP testimonies and why the analysis is focused on understanding the relationship between land use, racialization, the liberal order, and settler colonial relations. After this work, the literature review in Chapter Two will then explore the value of testimony in sociological analysis, and the relationship between ‘racialization’ and the settler identity by engaging with the ongoing debate about the nature of SCRs more generally in the Canadian context, particularly the identity infrequently theorized within the literature on SCRs as ‘settlers’ (Amadahy et al. 2009:107). This work will help to clarify how this study contributes to the debate about the nature of settler colonial relations and the settler identity in the context of settler Canada, being mindful of the internal variation within the ‘settler’ and ‘Indigenous peoples’ identity categories used in this study (Stasiulis and Yuval-Davis 1995:3). Finally, in this busy chapter, I will review the literature as it relates to the liberal order to ensure the work defining the relationship between land, racialization, and the liberal order is easy to follow throughout the analysis.

#### **IV. TCRT and CRT – a complementary theoretical approach**

Chapter 3 explains the combined TCRT and CRT framework methodologically grounding this study. It does so by exploring where scholars have suggested the two frameworks have differed in the past and where they may converge in the present. TCRT was developed by Brayboy (2005) in response to the lack of a colonial-centric analysis in the academic domain. Despite colonialism's endemic nature it was nowhere to be found in academic research, particular research on the concept of 'race'. CRT in a similar fashion developed after a perceived lack of understanding of how endemic racialization and racism were throughout North American social relations. This study believes that while there is room for autonomous frameworks in the academic sphere given the complexity of colonialism and racism, there is also room to combine the two frameworks in various ways given how integral the process of racialization is to the colonialism that is woven into the fabric of North American social relations (Simpson et al. 2011:285), or settler colonial relations (Coulthard 2003) in the terminology utilized by this study. In this chapter I will make the case for the joining of these two frameworks because of the methodological advantages their pairing conveys. In Chapter 3 I will also clarify the process by which I collected, selected, and reviewed the testimonies from RCAP for narrative analysis and why I decided to narrate RCAP testimonies in the first place. In short, I did so because I saw an opportunity to practice the art of social science in combination with Indigenous peoples' knowledge systems and methodologies to generate stories capable of theorizing the nature of settler colonial relations. I believe this is a path sociology must pursue to remain relevant in the context of settler Canada. I say this

because of how much I learned about the way in which settler Canada racializes the national identities of Indigenous peoples through liberal order language from Six Nations and other Indigenous peoples – the true experts when it comes to the nature of settler Canada. As representatives from the Haudenosaunee Confederacy wrote to the United Nations in 1977 (re-printed in the influential manuscript *Basic Call to Consciousness*):

The European invaders, from the first, attempted to claim Indians as their subjects. Where the Indian people resisted, as in the case of the Haudenosaunee, the Europeans rationalized that resistance to be an incapacity for civilization. The incapacity for civilization rationale became the basis for the phenomenon in the West that is known today as racism. (Akwasasne Notes 2005:97)

This quote highlights why I thought it was integral to cooperate with Haudenosaunee knowledge systems and why I believe the practitioners in such systems are the true experts: because for centuries they have been processing, understanding, and resisting the tendency of settlers to racialize national identities, a process which only results in the loss of Indigenous peoples' control over their land, liberty, and destiny. To reinforce the importance of being mindful of how one's social location ultimately shapes both how we know and what we can know (Simpson, James, and Mack 2011:286), I will interrupt the introduction to my research at this point in order to provide a bit of my story so as to provide more clarity on the methodological choices I made in this study and how I came to tie this work together with the concept of liberal order racialization.

## **V. My research story**

The story of this dissertation begins in Ireland and ends in the territories of the Haudenosaunee Confederacy or Six Nations. It begins on Éire, the Gaelic word for Ireland, because my family came from Ireland, arguably the first place ever colonized by

the British way back in 1166 (McVeigh 2008). My father, a Protestant, and my mother, a Catholic, fled the religious-fueled violence over the land in the middle of the twentieth century that nearly took their lives on several occasions. Religious-driven violence over land intensified at different historical junctures over the course of the island's history, but contemporary colonialism in Ireland is generally traced back to the 16<sup>th</sup> century when Britain imposed a plantation economy on the island consisting of private ownership of land owned and operated by Protestant British landowners from England and Scotland at the expense of the previously Catholic land owners who were organized on the land prior to these plantations in a more collective way (McVeigh 2008). This was the beginning of a regime of violence and discrimination that continues to this day. Mixed-religious couples like my parents were easy targets for the perpetrators of this violence and discrimination, and this context forced them to move to settler Canada in 1973.

My parents fled this colonial violence only to move to another set of social relations dominated by SCRs in settler Canada, and I believe the history of British imperialism as well as settler colonialism in Ireland has influenced my academic path toward frameworks such as TCRT and CRT that treat colonialism and racism as systemic throughout North American social relations. At first this understanding was guided by my understanding of the work of Karl Marx (1977) and his focus on land ownership as a source of oppression, and to a large degree it still is because of this focus on land ownership in his scholarship (Silagi 1992). Overall, Marx's work has always been concerned about understanding the nature of the capitalist mode of production, its past, present, and future. In his seminal piece, *Capital*, for example, he focused on the



transformation of commodities into capital and the role of wage exploitation as the primary mechanisms by which the mode is reproduced.

My belief in Marx's framework to understand social relations on the land would later be augmented by the work of TCRT scholars, CRT scholars, and the knowledge systems of Indigenous peoples which taught me about the specific relations unfolding on land in the context of settler colonial situations in settler Canada. Glen Coulthard (2003) in particular brilliantly unearths a little theorized aspect of Marx's past work to clarify the necessity of understanding the social relations on the land in settler colonialism. In Coulthard's (2003) work he uses Marx's understanding of the capitalist mode of production to propose a modified framework for understanding what Coulthard (2003) coined 'settler colonial relations' which were rooted in Marx's studies of the capitalist mode. Coulthard subverts Marx's focus on the primacy of commodities and wage exploitation as the major drivers of the capitalist mode of production to explain how in the context of settler colonial relations the dispossession of Indigenous peoples' lands via capitalism and the gendered violence, poverty, and racism that result is best explained by placing analytical emphasis on the role commodified land plays in settler colonial relations. Coulthard (2003) contends that land is crucial to the reproduction of capitalism and colonialism. I believe this and similar theoretical contributions combined with my own history and theoretical knowledge to produce the following study.

I was determined at the beginning of this study when the reclamation of Kanonhstaton by people from Six Nations was the primary focus that the reclamation was a social movement mobilized by what I considered Marxist concerns with the Six Nations'

alienation from the land. Coulthard's work and the guidance of my mentor, Dawn Martin-Hill, pulled me away from this position and moved me closer to the position of Amadahy et al. (2009) who theorized the reclamation as so much more than a mobilization by a social movement. Their work showed me how those who undertook the reclamation were guided by the principles of the Great Law of Peace and the Two Row Wampum (Amadahy et al. 2009:131). As such, the public nature of the reclamation provided settlers with an opportunity to re-evaluate their pre-existing values and worldviews in light of the Great Law and the Two Row, two central components to honouring the nation-to-nation relationship between the Haudenosaunee Confederacy and the Canadian government. Following this logic, what started out for me as an exercise in the sociology of social movements ended in a transformed understanding of my identity as a settler and how settler Canada has racialized the myriad of nation-to-nation relationships between Canada and Indigenous nations that govern land use across the country via the Indian Act (Barker 2008:259; Suzack 2007:226) and other legislative measures, just as it had done throughout its relationship with the Haudenosaunee Confederacy.

## **VI. Analyzing the morals of the stories**

The rest of the study builds upon the literature about just who or what a settler is within the context of settler colonial relations with the lands of Turtle Island (Sharma 2015; Kaur 2014; Amadahy et al. 2009; Sharma and Wright 2008; Lawrence et al. 2005). I believe this study demonstrates how integral the liberal order framework is to understanding the settler identity by demonstrating how the liberal order contributes to the racialization of Indigenous peoples' national identity. It begins to build this argument

in Chapter 4 where the actual analysis of the RCAP testimonies begins. Building on the work in Chapters 2 and 3 respectively and inspired by TCRT's emphasis on stories acting as theory, Chapter 4 is devoted to the analysis of cultural stories using an analytical framework common to the critical race literature. That framework consists of building testimonies into stories with the intention of studying the morals of these narrative constructions, a process referred to in this study as dialogical narrative analysis. Chapter 4 moves this study along by narrating the testimonies of the settler Canadian business interests, land interests, fishing interests, labour unions, and conservation-related, non-profit organizations. Reading the narratives of the RCAP testimonies from settler Canadians demonstrates how oblivious these individuals are during the time of their RCAP testimony to the common sense nature of 'race' in the sense that the concept is never discussed generally (Gotanda 2010:442), let alone in the particular ways in which it is used via the liberal order to racialize the national identities of Indigenous peoples in the context of settler Canada, erasing their inherent and treaty rights in the process. The narrated testimonies in Chapter 5 demonstrate precisely the opposite. They do so by demonstrating how Indigenous peoples do not relate to land as 'races' but instead they relate to land as nations instilled with languages, stories, spiritualities, and varied relationships with the Creator. This contradiction serves as the theme of the discussion of the findings in Chapter 6.

## **VII. Decolonization - why this research was undertaken**

Studying the reclamation taught me the importance of understanding the settler identity in order to resist SCRs. I say this in light of how the Truth and Reconciliation

Commission has illuminated the genocidal reality of SCRs and the contemporary efforts to assimilate Indigenous peoples. The ongoing epidemic of missing and murdered Indigenous women reminds us these efforts have tragically fatal consequences (Anderson 2011; Weaver 2009: 1554; Monture 2007). Given the magnitude of the crisis in our shared social relations, something must be done. Many are calling for a public inquiry into the epidemic of missing and murdered Indigenous women. Some are rightly saying this is but a small step in a bigger, more necessary transformation of our shared social relations. This study, then, in its own way sought to make the case that one way to resist SCRs, one small, seemingly insignificant way in light of the genocide, gendered violence, and assimilation SCRs perpetuate, is to pay more attention to the counter stories told about land use in the context of settler Canada. In a settler colonial context we must also be critical of cultural narratives about land for such narratives only seem to sustain the inevitable inequality generated by SCRs based on the racialization of Indigenous peoples' national identity via the liberal order. The role narrative sociology may play in more critically engaged storytelling by settlers serves as the basis of discussion in Chapter 7. As I conclude in this final chapter, sociology must continue to work with Indigenous peoples' knowledge systems, methodologies, nations, and peoples in order to continue to develop an ongoing relevance in settler Canada. Critical storytelling is one path to follow in this pursuit as we collectively strive to rid the planet of social relations premised on an endemic colonialism.

## **Chapter 2 – A decolonising literature review**

This chapter has much to accomplish as it reviews the literature on commissions, the testimonies provided during commissions, the RCAP testimonies in particular, and introduces the debate over the nature of the settler identity and the settler colonial relations in which this identity is taken form. Reviewing this research helps situate this study within the literature on the settler identity and demonstrates how it contributes to the discussion within this literature. To begin, this review will provide some historical context of royal commissions starting with their origins in Britain and conclude with a brief review of their use in Canada. It will also provide some historical context to the direct action at Oka, Québec in the summer of 1990 by people from the Mohawk nation that some argue was the impetus for RCAP (Hughes 2012) in order to give some theoretical perspective on the definition of settler colonial relations underlying this analysis. A theoretical introduction to the liberal order, the settler identity, and SCRs will follow this review of the historical context leading up to RCAP to help clarify how this study contributes to the developing body of literature theorizing who or what is a settler in the context of SCRs in Canada (Amadahy et al. 2009:107), a debate that shows no sign of abatement (Sharma 2015; Kaur 2014). Although there are valid criticisms of utilizing testimony in any kind of research (Whitlock 2006), this literature review makes a case for the usefulness of analyzing RCAP testimony using a combined TCRT and CRT approach because post-analysis it is seen to possess value in its ability to unpack the nature of the settler identity within the context of SCRs, and specifically the way in which settler Canada racializes the national identity of Indigenous peoples via the liberal order.

### **VIII. A brief history of royal commissions**

Royal Commissions in Great Britain have been part of the fabric of society in that region for centuries and are, as Frankel (1999:21) says, “particularly (and peculiarly) British institutions.” Commissions of inquiry have a particularly long history considering they have been utilized since the time of the Norman conquest of England in the eleventh century (Ashforth 1990:5). They were frequently relied on by the monarchies of both the Tudors and the Stuarts, until the power of each royal house waned in the seventeenth century. Commissions rose to prominence once again within British politics during the middle of the nineteenth century where they were given their more modern form by the nation state (Frankel 1999; Ashforth 1990:5).

Two schools of thought arose in relation to categorizing the nature of these modern commissions. According to Frankel (1999:20)

The triumphalist view deemed royal commissions to be the embodiment of science and impartial expertise in the service of society. The skeptical approach, originating later in the work of Beatrice and Sydney Webb, regarded them first and foremost as a political tool. Commissions were often manipulated to promote preconceived policies or activated to put thorny issues on the shelf.

Later theorists perceived such commissions as vital instruments in the hands of Britain’s political leaders who sought to use their findings to control a wide range of human behaviour they disagreed with throughout history. Putting it more succinctly, these commissions were fact-finding efforts used by the government to understand and to control the behaviour of individuals. In the very process of carrying out their supposed fact-finding missions, the commissions reproduced the power of the modern state (Ashforth 1990:11) by allowing the “... the liberal state to replicate and expand its

representational bodies, to make itself visible and, at the same time, to disguise itself behind an antiquated and seemingly autonomous institution” (Frankel 1999:21). That the liberal state may be the root of the problems these commissions sought to address probably did not occur to their organizers. Indeed, as Ashforth and Frankel concur, these commissions reproduce the visibility of the liberal state and give it legitimacy when it may be the cause of the problems that such commissions are struck to study.

Two historical British commissions have been noted in particular for their tendency to reflect the behavioural correction purpose of commissions as previously described above - the 1834 Royal Commission on the Poor Law and the 1837 House of Commons Select Committee on Aborigines (Hughes 2012; O’Connell 2009). Hughes (2012:28) notes how “Both reports dealt with policies concerning the ‘correct’ way to deal with a population which operated outside of the accepted economic structure and was a potential source of disorder.” Although faced with a crisis of legitimacy during the historical time period in which these commissions operated, the focus on corrective behavior, particularly when discussing the 1837 committee on Indigenous nations, reflects the focus of the dominant form of liberalism in Britain at the time of the mid-nineteenth century, liberal imperialism. This type of liberalism was developed specifically to justify corrective behavior to ensure that the Indigenous peoples in British-controlled colonies were sufficiently assimilated to become ‘civilized,’ according to British standards (Mantena 2007:114).

This history of commissions focusing on correcting ill-advised behavior has left an impact on the knowledge-generating practices of subsequent Royal Commissions and

similar parliamentary investigations (Hughes 2012; O’Connell 2009). Hughes (2012) believes the 1837 House of Commons Select Committee on Aborigines has had a lasting impact on ‘race’ relations policies in British colonies such as Canada in the century and a half following Canadian Confederation in 1867. O’Connell (2009) noticed numerous similarities in the ways in which these two commissions, as well as the Commission on Ending Slavery, functioned to collect their data and make their recommendations for controlling populations rather than supporting them. In particular she focused on three prominent commissions in Britain that would influence each other and subsequent British policy all over the globe for the next century and a half. O’Connell (2009) investigated the the Poor Law Commission, the Select Committee on Aborigines, and the Commission on Ending Slavery. She found that these commissions were ultimately about controlling social forces threatening to the British Empire at home and abroad, and how they reproduced socially destructive racialized thinking despite their claims to some sort of objective, scientific neutrality. Weaving her analysis in and out of the testimonies collected during the duration of these commissions and the methods by which they were run, O’Connell paints a picture in which the commissions generated a similar sociological effect. In O’Connell’s (2009:172) words she says of this effect,

The figure of the pauper – who dominated the poor law debate – was inextricably linked to the slave/ex-slave and Aboriginal subjects, all of whom, it was assumed, had to be tutored to participate in conduct befitting the new economy. Concern with these ‘problematic’ populations emerged from, and in turn legitimated state knowledge practices such as Royal Commissions and parliamentary investigations.

The story the British elite told themselves about each group reflected an unavoidable dichotomy given the context in which all three groups found themselves. Either all three



were to be ‘civilized’ to the standards of the British elite at the time, or, on account of their resistance to this process, they were deemed a threat to the security of the empire and deserved either reform or coercion until they were fixed. In each commission the pauper, the slave/ex-slave, and the Aboriginal subjects were seen as “weak and dependent in one moment – requiring improvement and training – and powerful and dangerous in another – necessitating more disciplinary measures” (O’Connell 2009:182). Both Hughes and O’Connell reinforce the work of Beatrice and Sydney Webb, as well as Ashforth, in that they both suggest such royal commissions are nothing more than exercises in the reproduction of state power. It was in this historical milieu of commissions that RCAP arose in the Canadian context, but it is necessary to consider this context when analyzing commissions struck by nation states such as Canada given the implications of such commissions for the reproduction of state power. With this critical outlook in mind, this study turns toward exploring the nature of the RCAP commission and the settler Canadian context in which it arose.

### **IX. Recapping RCAP**

The commission began collecting testimonies in the early 1990s during tense political circumstances for settler Canada. The country had just failed to pass the Charlottetown Accord, an accord which would have drastically restructured Canada – Indigenous relations by recognizing the governments of Indigenous peoples as a third order of government in Canada (Hughes 2012:122). RCAP is regarded by some as the Canadian government’s response to the land reclamation by people from the Mohawk community of Kanesatake near the Oka, Québec region (Hughes 2012:101; West-Newman 2004:199;

Castellano 1999:92-92). This crisis was ignited by the attempted development into a golf course of Mohawk nation burial grounds in the pine forests close to the Mohawk community known as Kanasetake. The foundation for this conflict was ultimately the three hundred years of colonial indifference by settlers to the Mohawk nation's historical relations to these lands and the illegal third party development that increasingly alienated these lands from Mohawk possession without Mohawk consent over the course of three centuries (McGregor 2011:300). Like the scholars cited in this study, many presenters who testified believed RCAP was created in response to this crisis. Striking yet another commission to solve a problem the Canadian state is directly implicated in creating. Harry Sock, director of Big Cove Child and Family Services, put it like this:

Yeah, I think the... this particular Royal Commission, you know, the way I see it, basically, it's a response to what had happened in Oka and what the Prime Minister had come out and said on television in regards to the Indian people. And thereafter the Commission was created and I said, you know, is this a result of what had happened or what ... at the same time, I don't know... I was a little skeptical, just like it was mentioned this morning, I think it was Albert that had mentioned it and said how many studies are you going to do on us, you know, do to the Indian people? You know, we have been studied to death. There has been many commissions, many inquiries. And if you look at the things that had happened, especially in the justice system, for example, like the Justice Inquiry, the Manitoba Inquiry, the inquiry in Ontario, the one in Nova Scotia, they all came out with definite recommendations. But is the Federal Government, or the powers that be, are they willing to go with what is recommended?

The general answer is, no, the government was not willing to put any of these recommendations from the five volume RCAP report into action, at least according to the commission's critics (Hughes 2012:101; Andersen et al. 2003:382; Ladner 2001:241). Alain Cairns actually called the federal government's response to RCAP 'embarrassing' (Hughes 2012:107).

When Brian Mulroney struck the commission in 1991 many had hope things would change in its wake, hope that was based on two things: the commission's expense and its extensiveness. The commission was provided with broad terms of reference by its special representative, Chief Justice Brian Dickson (Castellano 1999:93). In regards to those wide-ranging terms of reference, Hughes (2012:101) notes that "By the time RCAP issued its final report in 1996, the commission had grown into an extensive constitutional and historical review of Aboriginal settler society relations and produced copious and wide-ranging recommendations, many of which were never implemented." RCAP was not the first royal commission to study settler colonial Canada as several commissions held in the past by the Canadian government had previously investigated many aspects of the nation-to-nation social relations between settlers and Indigenous peoples including the Donald Marshall Junior inquiry, the Berger Inquiry, the Manitoba Justice Inquiry, and the most recent Truth and Reconciliation Commission investigating residential school abuse in Canada. Well known reports produced from other, similar commissions included the Hawthorn Report, the Lysyk Report, the Coolican Report, and the Penner Report (Hughes 2012:103).

RCAP was co-chaired by former Grand Chief of the Assembly of First Nations (AFN), George Erasmus, and lawyer René Dussault, and was comprised of five other commissioners, Viola Robinson, Mary Sillet, Paul Chartrand, former Supreme Court Justice Bertha Wilson, and Allan Blakeney, who would eventually be replaced by Peter Meekison. Apparently Mr. Blakeney became alienated by the slow pace of the commission in contrast to the ever-present urgency of the problems it was struck to study, as noted in

some of the testimony heard early on in the RCAP process (Hughes 2012). In the end, the composition of the RCAP commission consisted of four Indigenous commissioners as Erasmus, Chartrand, Robinson, and Sillet were from Dene, Métis, Mi'kmaw, and Inuit communities, respectively, and three settler commissioners from Canada and Québec (Castellano 1999:93). RCAP also implemented a commissioner-for-the-day approach that made it possible for communities the commission visited to appoint their own commissioner to the proceedings for the day (Chanteloup 2003:38).

In terms of the mechanics of RCAP the process for collecting testimony was legalistic in nature as these commissioners "...would tend to guard the right to be heard and to be patient, non-interventionist listeners who keep their questions to the end and let witnesses structure their own stories" (Hughes 2012:117). This legalistic framework went relatively unchallenged during the course of RCAP, and while this framework led to the development of a high level of thinking on the constitutional elements of the nation-to-nation relationships evident within the geographical boundaries of Canada, critics point out that when it came to the social policy side of the equation, RCAP was less than effective (Hughes 2012:118).

Despite its limitations, RCAP offers a sizeable, unprecedented volume of testimony from both Indigenous and non-Indigenous peoples from many different nations, communities, and peoples. Between 1992 and 1993 the commission visited 96 communities over the course of 178 days of hearings and took testimony from an estimated 2,000 individuals, making it the largest single collection of oral testimonies ever recorded in Canada's history (Smith 2009:135; Chanteloup 2003:39), and at \$58

million dollars over the course of five years (Castellano 1999:93), the most expensive public inquiry undertaken in Canada's history (Andersen and Denis 2003:379). These testimonies, while appearing sporadically in the final report produced by the commissioners (Smith 2009:137), are of immense value to scholars working in a wide range of disciplines (Smith 2009:135). According to Smith (2009:136), RCAP testimonial topics included

... relations between Aboriginal and non-Aboriginal people, self-government, self-determination, identity, Inuit and Métis issues, the North, education, language, culture, urban issues, poverty, economy, justice, Aboriginal elders, youth and women, health, healing, treaty rights and obligations, lands, resources, the Indian Act, public policy, and the residential school experience. The Commission visited large cities, Indian reserves, Métis settlements, Inuit communities, schools, prisons, halfway houses, friendship centres, and women's shelters.

Although the effectiveness of RCAP, politically or otherwise, is still up for debate twenty years later (Hughes 2012), there is no question that the trove of testimony, given the vast array of voices it contains, its wide scope, and its considerable geographical reach, is an important data source for social scientific research (Smith 2009).

While its recommendations have so far been largely ignored by the Canadian government, they have been put forth by advocacy groups in the years following RCAP as a model to emulate during their efforts to lobby the government for policy changes in settler Canada (Hughes 2012). Although the recommendations have largely been ignored, the governing model put forth in the RCAP report has been adopted by the Canadian government precisely because it offered a very limited vision of change in terms of nation-to-nation relations (Hughes 2012:123; Andersen et al. 2003:381; Ladner 2001). As Ladner (2001:244) notes, "RCAP says the right to self-government exists, but only for

nations, and some of the small, fragmented communities it met during the course of its operation do not meet the standards of a nation.” RCAP’s limited perspective on self-determination “... has become the foundation of federal self-government policy – possibly because it was a reiteration of much existing government policy (Ladner 2001:260). In RCAP’s case anyway, Ladner’s (2001) study of RCAP reinforces the findings from the literature on commissions that is critical of the ability of commissions to do anything else except reproduce the hegemony of the nation-state structure that calls them forth (Andersen et al. 2003:381; Ashforth 1990:8).

Dormant recommendations and impractical governing models aside, Hughes (2012) observed how the problematic nature of the RCAP proceedings arose almost from the outset of its formation. To start with, RCAP inspired criticisms in the way in which it was created. Hughes (2012) explained how RCAP struggled from the beginning to counter the perception that it was a top-down process imposed by the Canadian government. It gained this reputation because prior to Brian Mulroney’s announcement of the creation of the commission in April of 1991 he did not consult with any Indigenous nations, peoples, or groups. This fact initially upset George Erasmus and Viola Robinson, although the two would later overcome their objections and become RCAP commissioners (Hughes 2012:105). The alienation created in Indigenous communities and with community leaders such as Mr. Erasmus and Ms. Robinson by failing to properly consult Indigenous peoples on RCAP was addressed somewhat by the special representative to the commission, Brian Dickson, who responded to this criticism by giving RCAP a relatively wide mandate to, in Dickson’s words, “... examine all issues which it deems to be

relevant to any or all of the Aboriginal peoples of Canada” (Hughes 2012:105). The wide mandate worked well in bringing different Indigenous nations, groups, and individuals back on side prior to the creation of the commission (Hughes 2012:106), it still somehow managed to ignore the impact of colonialism on Indigenous communities, and it did not properly consider the realities of Indigenous women in any great detail (Monture 2009).

### **X. Testimony’s sociological mettle**

In the midst of a desire to know more about the history and nature of SCRs and the settler identity formed upon the lands of Turtle Island, specifically Canada, I collected and analyzed testimony from the much maligned Royal Commission on Aboriginal Peoples or RCAP and narrated this testimony into short stories about the social relations people form with the lands of Turtle Island. This methodology is inspired by one of the pillars of the TCRT framework that observes the connection between stories and theories, a connection Brayboy (2005) notes is inherent to Indigenous knowledge systems. Inspired by this knowledge connection but not replicating it with oral stories from Indigenous communities as Brayboy speaks of, I was curious to see what a narrative analysis of the testimony using a combined tribal critical and critical race theory framework might reveal about SCRs and the settler identity that takes form in such relations, but I was conscious of the concerns with the data and its source that I was using to carry out my analysis. Similar to the critical concern scholars have had with the existence and legitimizing influence of RCAP and other comparable commissions when it comes to the power of nation states, the testimony collected by royal commissions has also come under deserved scrutiny by scholars. As Whitlock (2006:34) suggests,

Testimony always needs to be understood as a constrained autobiographical performance rather than a moment of *free* speech. Testimony cannot be discussed without attention to the conditions that allow it to circulate and be witnessed in the dominant culture. In postcolonial contexts in particular, testimony is characteristically the genre of the subaltern witnessing to oppression to a less oppressed other, and in a form which the other can recognize as culturally and socially appropriate. Editorial control varies in degree but is never absent.

The difference with this study in relation to Whitlock's suggestion that testimony is characteristically the genre of the subaltern is that this study also includes testimony from Canadian settlers as well, and the result is a richer understanding of settler colonial relations. Indeed the inclusion of settler testimony proves colonialism was alive and well at the time of the RCAP tour of the country. Given commissions have been seen to possess value in educating the public (Smith 2009; Ashforth 1990:2), even though they may fail as policy-oriented projects and may reproduce the legitimacy of settler nation-states, I felt that if this study was to mine the educational potential of the RCAP testimonies for the purpose of understanding the settler identity in the context of settler colonial relations it had to include stories from all participants interacting within the context of SCRs, not just colonized subalterns. Due to the contested nature of land in the context of SCRs (McGregor 2011:302; Varese 2001:201-202; Pertusati 1997:5), it is important to hear as many stories as possible about social relations with the land in any analysis of these relations as doing so brings the settler colonial relations into sharper focus (Nandorhy 2011:339). The variety evident in this small sample of narrated testimonies about such relations from Indigenous peoples and settler Canadians illuminates the nature of SCRs as diverse and fluid, susceptible to resistance, and thus not sustained by immutable hierarchies (Guntarik 2009:308).



As mentioned, the commission was meant in part to serve as an educational opportunity for Canadians, and it would have been a timely one, too, given Canadians are widely regarded when it comes to these nation-to-nation relations as not knowing much of anything about Indigenous peoples, languages, and cultures, or their own responsibilities as set out via a diverse Covenant Chains of Treaties governing Turtle Island from the Royal Proclamation of 1763 up until the numbered treaties of the nineteenth and twentieth centuries, as well as modern day land treaties (Kaur 2014:169; West-Newman 2004). I analyzed the testimonies from RCAP in order to try and understand SCRs and the settler identity because I wondered why Canadians lacked such depth in their knowledge of these fundamental social relations with the land and I thought the RCAP testimonies might hold a clue. Despite the challenges in working with testimony, I believe this narrative study of the RCAP testimonies offers an explanation for why they do, although it must be remembered that this explanation is concentrated around the time frame in which RCAP took place, the early nineties. That said, this study explains how settlers racialize the national identity of Indigenous nations through the liberal order framework and specifically the language of equal rights which effaces inherent and treaty rights when it comes to social relations with the lands, waters, and resources of settler Canada and has been for centuries (Brownlie 2009:315). I believe this study honours the kind of educational potential commentators, scholars, and communities were hoping may resonate from the RCAP commission, particularly for settler Canadians by taking a closer look at the liberal order, racialization, and settler colonial relations. It demonstrates how a process of liberal racialization that relies on a common sense

understanding of the idea of ‘race’ erases any acknowledgement of settler colonial relations in Canada at the time of the commission. This erasure may help explain how hopelessly uninformed Canadians are about Indigenous peoples and their inherent and treaty rights at the time of RCAP and beyond.

At the heart of this analysis are the eleven testimonies from Indigenous peoples and ten testimonies from Canadians collected in communities and venues across the country between 1992 and 1993. Despite the judicial or legalistic way in which it was collected, the RCAP testimony was not given in courtrooms or other legal settings and as such it is an example of what is referred to more generally as ‘natural testimony.’ This is testimony in “... the tradition of recognizing the legitimacy of first-person accounts given by witnesses outside of a formal legal context” (Whitlock 2006:27). Despite the risk of a lack of control in releasing them beyond the reach of those who testified, natural testimonies can be revealing in the context of SCRs, “...for what they have to say frequently calls the settler community to account” (Whitlock 2006:34). The natural testimonies of RCAP are also advantageous to use in a sociological analysis because of the public nature of RCAP. All of the testimonies and the final report are available online and at most larger public libraries. Given its public nature, anyone can confirm that the words interpreted by this sociologist for my study are actually words people said during the commission’s proceedings. The framework for the following approach to analyzing natural testimonies is characterized as a tribal and critical race theory-driven analysis of the settler colonial relations that give rise to the settler identity (Coulthard 2003), and the remainder of this literature review will review the debate over defining the settler identity

in a Canadian context and explain how this study of natural testimony from RCAP contributes to the debate.

## **XI. Debating the nature of settler Canada**

In the work of Lawrence et al. (2005) which launched a debate about the nature of the settler identity in Canada they describe how the story of the process of settler appropriation of land that the Kanesatake Mohawk peoples experienced at Oka was far too familiar to the Mohawk people and to other Indigenous peoples across Canada. In their words they describe how “...Settler states in the Americas are founded on, and maintained through, policies of direct extermination, displacement, or assimilation. The premise of each is to ensure that Indigenous peoples ultimately disappear *as* peoples, so that settler nations can seamlessly take their place,” (Lawrence et al. 2005:123). This settler colonial relationship is, according to Chanrda Mohanty’s definition (1991:52), “... a relation of structural domination, and a suppression – often violent – of the heterogeneity of the subject(s) in question.” Settler colonialism relies on the processes of assimilation and genocide to remove all Indigenous peoples’ resistance to the colonial power. The history of this reality, the ongoing manifestation of assimilatory and genocidal processes in contemporary social relations, and the resistance to these relations by Indigenous peoples shape settler colonial relations, the settler identity, and the stories it is based upon, even though many settlers remain ignorant of this history and the contemporary reality formed from it (Amadahy and Lawrence 2009).

In the Canadian context for every relation of domination that homogenizes and ultimately dispossesses the land of Indigenous peoples there is a counterpart relation of

privilege that gives an advantage to settlers for no rational reason (Monture 2007:211).

This notion of settler colonial relations in terms of social relationships via domination and privilege is central to this study and the understanding of settler colonial relations used during its duration, and it is central to the work of Glen Coulthard as well, for he believes a ‘colonial’ relation

... can be defined as one characterized by *domination*; that is, it is a relationship where power – in this case, interrelated discursive and non-discursive facets of economic, gendered, racial and state power – has been structured into a relatively secure or sedimented set of hierarchial social relations that continue to facilitate the *dispossession* of Indigenous peoples of their land and self-determining authority. (Coulthard 2003:10)

Settler colonialism works to undermine all alternatives to the social relations it generates, leading to a loss of humanity and life not only for the colonized, but also for the settler invaders as well, although because of their privilege obviously not in the same way (Guerro 2003:61). In any analysis of settler colonial relations, the relationships between Canadians and Indigenous peoples must be seen in the context of the settler colonial project in which each has been and still is currently entrenched (Razack 2002:126).

Despite this systemic colonial reality, little attention has historically been paid to the definition of the term ‘settler’ (Amadahy et al. 2009:107), likely as a result of the invisibility of colonialism more generally in the context of Turtle Island as reviewed above. Perhaps it has also been conceptually avoided because it is difficult to pin down a more precise definition for it (Mohanty 1991:52). This may be because of the fact that these social relations have evolved so much since they have been violently imposed on the Indigenous peoples of Turtle Island (Amadahy et al. 2009:113; Monture 2007:207;

Rand 2002:139). This evolution is described in detail by Amadahy et al. (2009:113) who state that

Historical policies toward Indigenous peoples in Canada have varied throughout the colonization process – from eighteenth-century policies of outright physical extermination on the east coast toward the Mi'kmaw, coupled with wartime allegiances and fur trade partnerships further west with the Iroquois Confederacy and the Three Fires Confederacy; to nineteenth-century treaty-making and ultimately subordination in central and western Canada with the Cree and Blackfoot peoples; to the 'terra nullis' policies toward west coast Native peoples in the nineteenth and early twentieth century; to modern and ongoing resource rape and dispossession in the north, toward the Inuit.

Such colonial variation has created points of contention in recent Canadian literature that seeks to define settler colonial relations and determine just who or what constitutes a settler (Sharma 2015; Kaur 2014; Amadahy et al. 2009; Sharma et al. 2008; Lawrence et al. 2005). Although it is agreed that it is important to avoid a hard and fast separation of settler and Indigenous identities along the lines that have led to the colonial power differentials evident in Canada (Smith 1999:27; McCrone 1998:119; Said 1993), there has to be a recognition of these identities at some level for the purposes of some form of reconciliation that can repair the harms of the genocidal settler past by addressing the ongoing reproduction of those harms in the genocidal settler present (Poole 2004). Hence there is a need to work on acknowledging and on defining the nature of settler colonial relations in Canada and outlining some definition for the settler identity, which is what I hope to contribute to the discussion with this study by exploring these relations and this identity in the context of liberal racialization.

The question of who a settler is was initially taken up creatively and forcefully by Lawrence et al. (2005) who began an important and ongoing theoretical discussion that is

showing little sign of abatement (Sharma 2015; Kaur 2014). The discussion emanates from their respective observation that both the antiracism literature and antiracist movements have failed to engage with or acknowledge the genocidal social relations that give rise to settlers as these relations are experienced by Indigenous peoples on Turtle Island. According to Lawrence et al. (2005:123), the absence of such a perspective on the ongoing project of settler colonialism and the Canadian state's role in reproducing it ultimately means antiracist theorizing and movements may end up, at least indirectly, supporting the settler colonial status quo whether they realize it or not. From Indigenous peoples' perspectives, such an omission

...speaks to a reluctance on the part of non-Natives of any background to acknowledge that there is more to this land than being settlers on it, that there are deeper, older stories and knowledge connected to landscapes around us. To acknowledge that we all share the same land base and yet to question the differential terms on which it is occupied is to become aware of the colonial project that is taking place around us. (Lawrence et al. 2005:126)

Lawrence et al. (2005) subsequently explore this theoretical omission in their paper, demonstrating how previous studies have failed to make similar colonial acknowledgements in five primary ways. The first is the erasure or omission of Indigenous history and experiences within the literature on race and racism. The second is the lack of consideration in diaspora studies of the Indigenous diaspora across Turtle Island due to the dispossession of Indigenous lands. With that being said, the relationship between diaspora identities and SCRs is strongly taken up by Kaur (2014) in her most recent work. Thirdly, Lawrence et al. (2005) demonstrate how writings on slavery have historically omitted engagement with SCRs. Fourthly, anti-colonial politics have been treated as just another brand of antiracist politics, resigning Indigenous peoples to the

status of just another minority group based on race amongst many other ‘visible minority’ racialized groups in comparison to the white majority, and not a national minority as peoples from Indigenous nations should rightly be considered. Finally, all too often theories of nationalism have not considered Indigenous nations as legitimate nations (Lawrence et al. 2005:128).

Contrary to these ideas and theories that omit any mention of the colonial context underlying social relations in North America, Lawrence et al. (2005:131) suggest that “ongoing colonization and decolonization struggles must be foundational in our understandings of racism, racial subjectivities, and antiracism.” By framing these struggles in such a context antiracist scholars and activists will develop a better understanding of how different racialized identities interact within ongoing SCRs. As Lawrence et al. (2005:134) suggest, speaking about the settler identity in Canada,

People of color are settlers. Broad differences exist between those brought as slaves, currently work as migrant labors, are refugees without legal documentation, or émigrés who have obtained citizenship. Yet people of color live on land that is appropriated and contested, where Aboriginal peoples are denied nationhood and access to their own lands.... Always present, Native eyes watched each wave of newcomers – white, black, Asian – establish themselves on their homelands.

In order for SCRs studies to inform racism and antiracism studies, antiracist studies must “...examine how people of colour have contributed to the settler formation. We are not asking every antiracism writer to become an ‘Indian expert.’ This is not desirable. Nor should histories of blacks, South Asians, or East Asians in Canada focus extensively on Aboriginal peoples” (Lawrence et al. 2005:136). In other words Lawrence and Dua are suggesting that what is needed is a more complex, nuanced understanding of the settler identity within the context of SCRs, and for antiracist theorists to become more cognizant

of SCRs in their research so that more meaningful, decolonizing social science may be realized moving forward.

Sharma and Wright (2008) sharply criticized Lawrence et al.'s (2005) position in their response to Lawrence et al.'s paper calling for greater engagement by antiracists with settler colonial relations in their work. They take on two key positions put forward by Lawrence et al. (2005); namely, the use of the term 'settler' to describe all those who were forced to Turtle Island after they experienced colonization or slavery in their homeland, and the claim that decolonization can be achieved through a nationalist project. By wondering if individuals who are forced to migrate from colonized societies should be considered settlers once they arrive to Turtle Island context, Sharma et al. (2008) ask, if there are "... particular sets of relationships that make one a 'settler colonist,' or are all migrants by necessity part of this group" (Sharma et al. 2008:121)? In regards to their second objection, decolonization through the realization of national identity, Sharma et al. (2008:121) wonder if "... efforts at colonization that rely on ideas of 'nationhood,' this time centred on the autochthonous discourses of 'Native' rights, result in a transformation of colonial rule with its particular definitions of territory, polity, and governance, or do they simply reverse (or loosen) the binary of power while maintaining the dualism? Are critiques of naturalized nationhoods and nationalisms tantamount to support for colonialism?"

In regards to their first objection, they find categorizing all individuals who are not descendants of the original inhabitants of Turtle Island into the general category of settler and all those who are descendants of the original inhabitants into the general category of



Indigenous conceptually problematic. To them it is problematic because they contend that such dichotomous, homogenized identities actually originate within the “...context of the political consolidation of neoliberalism in the late 1980s and the related rise of neo-racist ideologies of incommensurable ‘differences’ among ‘cultures’” (Sharma et al. 2008:122). Sharma et al. (2008:123) believe that it is problematic to centre an analysis on the dichotomous, homogenized difference between settlers and Indigenous peoples because they think that the idea in which Indigenous peoples are rooted to specific localities or places on the planet is actually a form of ‘racialized thought’ that stems from neo-liberal thinking.

This type of thinking, which Sharma et al. (2008:124) refer to as ‘anti-miscengenist’ in nature, has its origins in the belief that ethnic identity boundaries are naturally occurring, and not socially constructed. Feminist scholars have been critical of this belief because of the power they assert it provides to elites who use such boundaries to enforce their self-interested conception of social relations on people (Sharma et al. 2008:124). In their words, “Thus, the dualistic hierarchy established by neo-racist thought is one between ‘Natives’ and ‘non-Natives.’ Within this dynamic, two arguments are discernible: first, that ‘Natives’ have a natural connection to *particular lands* and that migrants, either by moving or staying, upset this ‘natural’ order” (Sharma et al. 2008:125). According to Sharma et al. (2008:126), “By insisting that the moral claims of ‘Natives’ are central, the claims of others are rendered as peripheral to the realization of either decolonization or justice.”

Later on in their study, in a somewhat contradictory fashion, Sharma et al. (2008:127) do not deny the imperative nature of understanding Indigenous peoples' resistance to SCRs, but they suggest it should be paired with a careful consideration of the socially-constructed nature of social identities and the history of joint resistance between Indigenous peoples and African Americans on Turtle Island. As they say, "The theorizing and re-forming of these intimate, historical connections among the colonized ought to be central to our strategies for a decolonization worthy of its name" (Sharma et al. 2008:127). Yet Sharma et al. (2008:128) assert shortly after this statement that they do not believe the decolonization efforts of Indigenous peoples and nations will be successful because these efforts only theorizes who rules, not the relational processes by which they rule. Sharma et al.'s (2008) seemingly contradictory denial of Indigenous nationhood is summed up near the conclusion of their study with the following quote that suggests Indigenous 'neo-racist' notions of national identity are the same as the settlers' sense of national identity. In their words they say

Thus, although the neo-racism evident within many indigenous nationalist movements emerges from colonial forms of rule, and can often be seen as a reaction to the racist practices of colonizers, we cannot ignore the commonality shared by the nationalisms of colonizers.... These commonalities include adherence to modernist identities of 'nationhood,' with all of its imagined, limited, and communalist characteristics, and, therefore, the acceptance of a hierarchical notion of societal belonging organized through old or new racist discourses. (Sharma et al. 2008:128)

Contrary to Sharma et al. (2008), the analysis undertaken in the following chapters will demonstrate a lack of neo-racist discourse in the testimony by Indigenous peoples about their inherent and treaty rights to land, water, and resources while outlining stark differences in conceptions of nationhood and relationships with the land by settlers and

Indigenous peoples who testified to RCAP. These are vital differences to consider given how essential land has been to Indigenous and settler conflict in Canada (McGregor 2011:302; Pertusati 1997:5), and wherever Indigenous peoples have resisted European imperialism (Varese 2001:201-202). It is obvious that while Indigenous peoples and settlers share the same land and waters, they share very little in common in regards to the ontologies and epistemologies practiced upon these lands (Brayboy 2005:427), thus challenging the claim by Sharma et al that that neo-racism exists in the national discourse of Indigenous peoples.

As a way forward toward reconciliation, Sharma et al. (2008) do tip their theoretical cap to the notion of the global commons, and conclude their paper by suggesting the need to make sure understandings of colonialism are couched in this idea about the theft of the global commons (Carroll 2010:179) and that a return to the global commons is the only way forward for successful decolonization of Turtle Island (Sharma et al. 2008:133).

Coulthard, however, is critical of any sort of strategy that suggests a return to a supposed global commons. In fact, he suggests doing so risks reproducing settler colonial relations.

As Coulthard (2003:17) states,

... in liberal settler-states such as Canada, the ‘commons’ not only belongs to somebody – the First Peoples of this land – they also deeply inform and sustain Indigenous modes of thought and behavior that harbor profound insights into the maintenance of relationships within and between human beings and the natural world built on principles of balance, non-exploitation and respectful co-existence. By ignoring or downplaying the centrality of dispossession, critical theory and Left political strategy not only risks becoming complicit in the very structures and processes of domination that it ought to oppose, but it also risks overlooking what could prove to be invaluable glimpses into the ethical practices and preconditions required of a more humane and sustainable world order.

In a later article, Amadahy et al. (2009) use Sharma et al.'s (2008) response to further clarify and strengthen their own position and re-affirm the centrality of Indigenous struggles within the context of settler colonial relations. In their work, Amadahy et al. (2009) take up Sharma et al.'s (2008) challenge to develop a more nuanced understanding of the settler identity that comes from SCRs by exploring the relationship between Indigenous and Black and African Canadian peoples in Canada. I have capitalized the word 'Black' here in lieu of comments by one of the founders of Critical Race Theory, Kim Crenshaw. Professor Crenshaw capitalizes the word 'Black' because Black peoples, like peoples from various parts of Asia and Latin America, constitute a specific cultural group and hence the word must be capitalized to reflect this fact (Harris 1993:1710). I use the identifier African Canadian to distinguish between Black Canadians and African Canadians, the latter possessing distinct stories of their move to Canada in the wake of supporting the British during the American Civil War. Amadahy et al. (2009) challenge Sharma et al. (2008) in order to determine where the relationships between African Canadian, Black and Indigenous peoples in settler Canada has produced anti-colonial social relations and where it has mirrored perspectives conducive to reproducing settler colonial ones. They begin their analysis by noting that many university-based studies have focused on precisely defining the term 'Indigenous' while neglecting to undertake the same conceptual work to define the term 'settler' in more depth (Amadahy et al. 2009:107). In their words, speaking of the word 'settler,' "The term is intrinsically linked to the complex relations of post-Columbian White colonialist project globally" (Amadahy

et al. 2009:107). They explain what this means for the relationship between Indigenous peoples, African Canadian and Black peoples, stating that

From this perspective, for groups of peoples to be forcibly transplanted from their own lands and enslaved on other peoples' lands – as Africans were in the Americas – does not make the enslaved peoples true 'settlers'.... The reality then is that Black peoples have not been quintessential 'settlers' in the White supremacist usage of the word; nevertheless, they have, as free people, been involved in some form of settlement process. What seems more important than the semantics about whether or not individuals should be called settlers is the question of the relationships that Black 'settlers' have, by virtue of their marginality, with those whose lands have been taken, and what relationships they wish to develop, at present, with Indigenous peoples. (Amadahy et al. 2009:107)

The rest of their study is devoted to parsing out explanations for the complex dynamics they introduce in the above quote, clarifying as they do what they mean by a relational definition of the term 'settler.' As we can see through the above definition, the term 'settler' in Amadahy et al.'s (2009) research is dynamic, relational, and defined by the social relations one forges in the past, present, and future with the descendants of the original inhabitants of Turtle Island. Because of its emphasis on relationships as the foundation for the term's definition, Amadahy et al.'s (2009) work defining the term 'settler' serves as the inspiration for the way in which it is understood and applied in this study. The concept is defined in Amadahy et al.'s (2009) work through a review of Black theorists and their ideas which Amadahy et al. suggest have ranged along a spectrum of thought that reproduces SCRs to thought that does not. Since this work is integral to this study, this chapter now turns to reviewing the way in which Amadahy et al. utilized these theorists and their ideas to build the definition of the term 'settler.'

According to Amadahy et al. (2009:112) the presentation of their ideas produced great scorn in the eyes of several members from Black and African Canadian

communities in Canada who challenged the use of the term ‘settler’ to describe their relationships to lands within the context of Turtle Island. They did so because African and Black Canadians also experience a social identity mediated by the racism inherent to settler colonial relations. As they say, “Black Canadians in particular face a nation state which has continuously excluded large-scale Black settlement, and which, despite the existence of centuries-old Black settlements, continues to construct a vision of Canadian nationhood where Black people are forever marginal newcomers, always external to the nation” (Amadahy et al. 2009:115). Similar to Indigenous peoples, African and Black Canadians have been left out of the founding myths of Canada.

Despite the somewhat similar challenges posed by SCRs to Indigenous, Black, and African Canadian peoples and communities because they are united by experiences with systemic racism, cooperation and solidarity between these communities has not always been forthcoming. This is partially because African Canadian and Black literature has often erased colonialism from its view, but as Amadahy et al. (2009:118) suggest,

This erasure is neither deliberate nor accidental – it flows inevitably from a theoretical framework that separates racism from colonialism and genocide, and grants priority to racism. It is perhaps not surprising that this approach would dominate in Black Canadian writing; the reality of Black suffering in Canada is mediated through racism – whether it is through the structural realities of poverty, job discrimination, discrimination in housing and in education, or the lived daily realities of police violence and over-incarceration.

Amadahy et al. (2009) point out that the act of inhabiting lands on Turtle Island does not necessarily implicate all non-Indigenous peoples in the reproduction of settler colonial relations. How you wish to tell your story about your relationships with the

lands of Indigenous peoples in the settler Canadian context is up to the individual storyteller. Or as Amadahy et al. (2009:119) more accurately put it,

...for all peoples forced to live on other peoples' lands, a crucial question becomes what relationships they will establish with the Indigenous peoples of that land whose survival is so under siege. Ultimately, to fail to negotiate a mutually supportive relationship is to risk truly becoming 'settlers,' complicit in the extermination of those whose lands they occupy.

A settler identity, then, is not something that is fixed in social relations made of proverbial amber - it is a relationship more than anything else. Given that, this study found that the contemporary settler identity, at least as it is apparent through the early 1990s RCAP testimonies, is dependent upon the relationships people form with the land and the way in which these relationships unfold within the context of the liberal order framework. Specifically, those relationships that rely on the language of a taken-for-granted or common sense understanding of 'race' to racialize the national identities of Indigenous peoples. They do so through the use of the language of equal rights to efface the existence of inherent and treaty rights and because they do such relationships are interpreted as settler colonial in nature.

As this study makes clear, the relationship between land, the LOF, and 'race' offers a useful way to further distinguish just who or what a settler is in the context of Canada and helps clarify what settler colonial relations and the language used to describe look like in practice. McKay (2009:361) describes how there is a role for the liberal order framework to play in terms of understanding the settler identity in the context of SCRs given an underlying assumption of the LOF is that Canada "... was (and in many respects still is) a 'white settler dominion,' whose predominant political,

legal, and religious systems were imposed on its indigenous inhabitants.” McKay (2009:408) is also adamant a critical race theoretical understanding of the liberal order framework is possible amongst many other different frameworks from feminism to environmental and sexuality studies that McKay believes could complement the LOF approach. The LOF is flexible and can accommodate other disciplines and frameworks, but what exactly do McKay (2009) and Brownlie (2009) mean by the liberal order framework? Furthermore, how does such a framework contribute to our understanding of SCRs and the settler identity? This chapter concludes by providing answers to these questions in order to set the stage for the analysis to follow.

Mackay accords much of the responsibility for the unification of Canada from a settler colony into a nation-state in the nineteenth century to what he calls transatlantic, mid-nineteenth-century liberalism. He uses the liberal order framework as a means to understand this history of liberal-induced unification, citing the work of Benedict Anderson’s ‘imagined communities’ concept in order to do so. This concept was developed through Anderson’s own efforts to understand the rise of nations and nation-states out of disparate groups of human beings with little or no contact with each other (Satzewich 1994). McKay uses it to suggest that what allowed settlers in Canada to imagine the nation of Canada across the vast, diverse expanse of land, cultures, and languages that would eventually encompass this imagined nation was the liberal order framework (LOF). This framework allows one to understand the preconditions, ideology, and material practice of this imagined community of settlers which ended up uniting Canada despite the myriad of different relationships European-



born people and their ancestors formed with the lands and Indigenous peoples of this country. The LOF made it possible to ‘imagine Canada’ and McKay credits this history of Canadian unification to a liberal project of rule that lasted from the 1840s into the 1940s (McKay 2009:348-349).

The unification of Canada via the LOF is defined by McKay as a *project of rule*, or “... a project necessarily conditioned by its rulers’ core understandings of and practical interventions in economic, social, and political life” (McKay 2009:349) because of the immensity of liberalism’s reach throughout the fabric of settler Canada. From the beginning this has meant the core understandings of white, European males who earlier in the country’s history sought to establish British liberalism on Canadian soil (McKay 2009:418) and who later sought to develop the nation of Canada based upon these same core understandings. McKay is careful to warn scholars that pinning down an exact definition of the term is difficult given the variety of liberal thought (McKay 2009:349), but he stresses that it is imperative to work toward defining it since the liberal order has been so influential to the development of settler Canada and yet so ambiguously defined. The liberal order’s ability to render a natural, or taken-for-granted understand of race contributes to the reproduction of settler colonial relations (McKay 2009:365).

For McKay (2009) in terms of these core understandings the concept of the individual is one of the pillars of the liberal order. He suggests that this does not refer to a description of the individual in terms of what he calls ‘living human beings,’ but more so the individual as an abstract category of thought that when ‘purified,

rationalized, and ‘improved’ will ultimately lead to a better individual (McKay 2009:350). According to McKay (2009:350), “A true individual was he who was self-possessed – whose body and soul were not owned by or strictly dependent upon another person or upon the external natural world.” McKay (2009) and Brownlie (2009) both emphasize that this belief in the sanctity of the individual and the rational improvement of said individual sets the liberal order apart in a revolutionary way from other organizing ideologies which existed in Canada along more collective, non-liberal terms (McKay 2009:361; Brownlie 2009:316).

In order to be considered truly independent, then, an individual needed the ability to make money without relying upon any other person or the natural world. Hence the integral role played by another pillar of the liberal order framework in Canada - private property. Private property allows the individual (individual man in this case given the gendered nature of private property) to live free from dependency on anything or anyone. Owning private property provided the individual with autonomy and signaled their independence. According to McKay and Brownlie, a regime of private property in the context of the LOF was protected by the belief that the individual had the absolute right to acquisitive behavior, or behavior defined as the right to acquire as much private property as the individual felt feasible (McKay 2009: 419-420; Brownlie 2009:315). The third ideological pillar of the liberal order is the language of equal rights. Whether it was the belief in the equal right of all individuals to pursue this acquisitive behavior or their equal protection under a singularly applied rule of law, the equality of rights language of the liberal order has been an instrumental pillar to the reproduction of the liberal order

(Brownlie 2009:311). McKay defines these three pillars of understandings as what he refers to as the triune of the liberal order, or “ the formal equality of adult male individuals before the law, the liberty of some individuals to certain carefully delimited rights and freedoms, and finally their freedom to acquire and defend private property” (McKay 2009:355). McKay (2009) uses the phrase the ‘liberty of some’ individuals to highlight how the colonized, women, and racialized individuals have not experienced the same equality in terms of access to the legal and political systems of Canada historically. As the upcoming analysis of RCAP testimonies provided by Canadians will demonstrate, the equal right of all ‘races’ in the settler narratives to acquire private property in the form of land and the resources contained therein racializes the national identity of Indigenous peoples in Canada through a common sense or naturalized understanding of ‘race.’

This chapter sought to lay the theoretical groundwork for the rest of the study to follow. To do so it reviewed the history of royal commissions, starting with their beginnings in Britain and ending with their history in Canada, particularly the history of the Royal Commission on Aboriginal Peoples (RCAP). Digging into the history of RCAP necessitated a theoretical review of the literature related to commissions, to testimony, and to settler colonial relations as it is believed by many that the reality of such relations led to the creation of the RCAP commission in the first place. Specifically, a moment in the history of these relations, what many settlers have come to know as the ‘Oka Crisis,’ was cited as the reason why the RCAP commission was called into existence in the first place. As I reviewed in this chapter, that crisis was three hundred years in the making, a mind-boggling historical fact that becomes easier to comprehend once the nature of settler

colonial relations is taken into consideration. This theoretical consideration is undertaken in the last half of the chapter where I reviewed the literature debating the nature and identity of settlers within the context of settler colonial relations in Canada, a debate long in the making, desperately needed, and demonstrating no signs of abatement given the ongoing nature of SCRs. Far too much attention has been paid to studying Indigenous peoples who are ‘studied to death’ (Smith 1999) and yet according to the scholars reviewed in this chapter far too little attention has been paid to the nature of settler colonial relations and the settler identity imposed on the lands of Turtle Island by Europeans and their subsequent settler ancestors. This chapter sought to fill in some of this gap in an effort to bring clarity to the debate over the nature of the settler identity and SCRs in the context of Canada. It did so by explaining the nature of the LOF and introducing its role in determining the settler identity in order to lay the foundation for a more in depth discussion of the LOF in the context of the analysis of settler testimonies that takes place in Chapter 4 and in Chapter 6, respectively. The following methodology chapter focuses on why the analysis of RCAP testimonies was carried out via a combined TCRT and CRT framework, how data was collected for this analysis, and how the above theoretical work on the term ‘settler’ in the context of the liberal order informed the methodology used to collect data for the forthcoming analysis.

### **Chapter 3 – Methodology, or decolonizing through storytelling**

In this chapter the nature of testimonies as data for an analysis of settler colonial relations is further explored through the lens of a Tribal Critical Race Theory (TCRT) framework complemented by a Critical Race Theory (CRT) framework. In particular this study's methodology is grounded in TCRT's emphasis on stories acting as theory and theory informing praxis (Padgett 2012; Brayboy 2005) and CRT's emphasis on illuminating taken-for-granted understandings of 'race' and on the framework's reliance on stories and their ability to illuminate the connection between the individual and the social relations in which they are embedded (Ingram 2013; Decuir and Dixon 2004; Bell 2003). Using testimonies as data has some drawbacks, but the benefit from studying testimony, particularly testimony as rich as RCAP's, is that doing so through a combined lens of TCRT and CRT reveals a great deal about the nature of land use in settler Canada, SCRs, and hence the settler identity. The following chapter will review these drawbacks and benefits before explaining how the combined TCRT-CRT approach informed the main method used in this study which is referred to as dialogical narrative analysis (DNA). This method, which sees the sociologist acting as a narrator (Frank 2012; Maines 1993), was instrumental to this study as the analysis focuses on twenty one RCAP testimonies I turned into short narratives. Guided by DNA, as well as TCRT and CRT principles, this methodological approach to social analysis is my effort to honour the ongoing relationship building between settler Canadian sociology and Indigenous knowledges (Guntarik 2009:307) that challenges previous or current Canadian sociology which reproduces settler colonial relations - for the purpose of decolonization.

## **XII. Why study testimonies?**

Testimonies represent rich data for sociological analysis, and yet the bodies in which such data is usually found, government inquiries and commissions such as RCAP, have not been subject to much empirical research in Canadian sociology (Flanagan 2011:291). For those sociologists who heed Tilly's (1998:39) call to practice sociology in order to address social inequalities, inequalities like those inherent to settler colonial relations, testimonies are an enriching data source because "... testimony is conventionally a means by which the experiences of the disempowered and dispossessed are acknowledged and circulated" (Whitlock 2006:37). Despite these communicative benefits, there are some risks one must pay heed to when analyzing testimony from RCAP given that the commission has been interpreted as a legitimating tool of the settler Canadian state (Anderson and Denis 2003; Ladner 2001). Analyzing the testimony from RCAP and similar, problematic royal commissions and public inquiries is seen to possess value because of the contributions such studies may make to the effort to decolonize settler colonial Canada. In this study I sought to show how these contributions are based on the fact that narrated testimonies from such commissions possess educational value about the nature of settler Canada and how to transform it, two things settlers in Canada seem to know little about (Amadahy and Lawrence 2009).

With that said, risk is unavoidable in this sort of research given the colonial context in which it is undertaken. In such a context interpreting the words of others is never done without incurring implicit risks in doing so. Particularly in view of the centrality of the historically burdened, oppositional 'relationality' that constitutes all institutions, relations,

and people embedded in settler colonialism (Whitlock 2006:41), misinterpreting the words of others in a research study risks reproducing the very settler colonial relations that are foundational to social relations in North America (Brayboy 2005). Given this settler colonial foundation, where words carry the potential to reproduce this foundation, one of the obvious advantages of the RCAP testimonies is that their public nature permits anyone to confirm that the words utilized in any study of RCAP testimonies are actually the words people spoke during the RCAP proceedings (Chanteloup 2003). This is because the RCAP testimony is widely available in electronic format in many public libraries and because the testimonies may be accessed online for free. Hence, the possibility for transparency is there since the testimonies are widely available, but in terms of interpreting the testimonies this advantage means nothing when it comes to their validity, since “... speakers are unable to identify whether their subjectivities are presented correctly” (Chanteloup 2003:44) in the testimonies. Validity risk premised on this issue of how representative subjectivities are presented in the RCAP testimonies and in the research of such testimonies is mitigated by the approach undertaken in this study, an approach that relies on an ongoing effort to confirm validity via dialogical narrative analysis (DNA). Indeed, as Frank (2012:44) suggests, DNA

... has no interest in presenting itself as the last word. What requires exclusionary gestures is unclear at best and suspect at worst. Part of what makes a dialogical report good is the opening it creates to further representations. Here again is the dialogical commitment to unfinalizability. The dialogical analyst freely admits that the collection could be assembled and sorted in multiple ways, yielding different analyses; doing those other analyses would expand the dialogue. (Frank 2012:44)

Despite the methodological caution built into this combined CRT and TCRT study through a commitment to unfinalizability and multiple truths that is inherent to DNA

analysis, the potential is always there that the interpretation of people's words will do more harm than actual good when it comes to efforts to decolonize institutions such as the Canadian state and Canadian universities since there is always the risk that stories and by extension an analysis of these stories may reproduce "... the very interests, boundaries, and mandates that *constitute* the institutions within which they are told" (Polletta 1998:425-426). For those interested in social science that is critical of institutions implicated in a colonial context, this point should raise some concern. As some scholars remind us in the context of settler colonial relations (Hargreaves 2009; Srivastava and Francis 2006), this means there is a possibility that "... the inclusion of Indigenous peoples (and their testimony) serves not the interests of dialogic exchange in the pursuit of social justice, but is rather insidiously structured in service to the hegemonic interests of the state" (Hargreaves 2009:107), which in this case means a nation state implicated in historical and ongoing settler colonialism.

This is a concern to be aware of in the context of using testimony as a source of data: the ability of any analyses of testimony to actually act as a mechanism of containment as opposed to an act of resistance through understanding (Whitlock 2006:25). In Whitlock's (2006:34) eyes this means that "There is risk in the act of giving testimony, often coming in the form of a transaction to which the subaltern cannot accede." In other words the risk of this interpretive transaction is that those giving testimony do not control the transmission, interpretation, or use of the testimony in the wider social relations. In a colonial context this potentially means testimony may function in some social scientific (amongst others) analyses as a mechanism of containment, denying colonized subalterns a



decolonized justice. This interpretive risk, however, also exists for settler testimonies because the RCAP commission collected testimony from settlers in Canada from a variety of backgrounds (Chanteloup 2003:40). The interpretative transaction involving settler Canadian testimonies, however, does not carry the same risks as those faced by Indigenous people who testified due to the context of settler colonialism overarching all social relations in North America (Brayboy 2005). The misinterpretation of Indigenous discourse via testimonies, or the testimony's containment, risks reproducing the type of colonial social relations many scholars consider genocidal in nature (Brave Heart, Chase, Elkins, and Atlschul 2011:286-287; Nandorfy 2011:345; Amadahy et al. 2009:110; O'Connell 2009: 188; Tupper and Cappello 2008:563; Lawrence et al. 2005:121; Dua, Razack, and Warner 2005:4; Lawrence 2002:24; Stasiulis et al. 1995:7). Misinterpretation of testimony from Indigenous peoples may only contribute to the reproduction of such genocidal social relations.

When not misinterpreted, the testimony of Indigenous peoples like the kind collected during RCAP's duration must be considered important decolonizing texts and relevant for understanding the reality of settler colonial relations in Canada (Smith 2009). In addition, as Linda Tuhiwai Smith (1999:35) says, "Telling our stories from the past, reclaiming the past, giving testimony to the injustices of the past are all strategies which are commonly employed by Indigenous peoples struggling for justice.... the need to tell our stories remains the powerful imperative of a powerful form of resistance." Providing testimony in this context creates two subjects with two different levels of power (Whitlock 2006).

One subject is the witness to the injustice and the other is the target(s) of the witness's testimony. As Whitlock says (2006:36), speaking of the witness/target relationship,

In discourses of reconciliation these two acts of self-fashioning are understood dialogically, and so collective and historical conflicts are reframed into a personal and individual process of negotiation and recognition. Testimony is heard and acknowledged, initiating an often painful *re*-remembering and acknowledgement in the witness.

In such a context, Whitlock (2006:36) suggests the results from providing testimony for the witness can be somewhat unpredictable, but the process is designed to empower a new awareness in the witness. In this study's case that means a new or perhaps a higher awareness in settlers of SCRs in Canada and the settler identity premised on these relations.

### **XIII. The value and risk of studying the RCAP testimonies**

Not all testimony from RCAP follows the witness/target relation, however. Some Indigenous people who testified did not take the time to tell the story of the injustices they had experienced under colonialism in Canada. Instead they used the RCAP platform to voice their frustration with settler society and with the RCAP process itself. Many thought that RCAP was yet another in a long line of useless commissions undertaken by the Canadian government to delay justice for the harms wrought by successive settler governments upon Indigenous peoples in Canada. Others, as Anderson and Denis (2003) suggest, believed that RCAP gave an appearance that the settler Canadian state was doing everything in its power to prevent another reclamation like the one that prompted so much state-led violence in the summer of 1990 in Oka, Québec.

People who testified through RCAP cited various government commissions from the past which produced reports that were now sitting idle on dusty shelves - their recommendations ignored. The Manitoba Justice Inquiry, the Donald Marshall Inquiry, Berger's Inquiry into the Mackenzie Valley Pipeline, the Penner Inquiry, the Coolican Inquiry - all of these were referenced in this manner in several RCAP testimonies. Many Indigenous people who testified to RCAP also noted that they actually hoped RCAP would be the last royal commission they would ever see. They wanted to believe the RCAP commission would collect all of the relevant information it would need to fix these relations created by SCRs and the inequalities inherent to them and in doing so foster stronger nation-to-nation social relations among the many Indigenous nations within the country and the colonial nation state of Canada. They wanted to believe it might prevent another Oka.

Indigenous and non-indigenous peoples who testified to RCAP might have had good reason to believe RCAP could actually do so considering the scope of the individuals, organizations, nations, and peoples that testified to the commissioners, the resources devoted to the life of the commission, and the sizeable, multi-volume report it produced. Over two thousand and sixty-seven testimonies were recorded and transcribed throughout the life of the RCAP commission in several different languages (Smith 2009:135), or what has been estimated at over 75,000 pages of transcribed testimony (Chanteloup 2003:39). RCAP testimonies offer a rather convenient advantage to the sociologist who adopts them as a data source for their analysis - their accessibility. The RCAP testimonies are in an online, searchable database (Chanteloup 2003:54) and they are in compact disc

format, as well, which can be found in many public libraries. Their public nature is vital in terms of ensuring the validity of this study as previously discussed, and in addition it gives another sociologist the ability to reproduce the conditions of this study in order to test its reliability since the data used for this study is so reliably available.

Given these testimonies were provided to RCAP commissioners outside a formal legal context there is the potential that such testimonies may be perceived as lacking legitimacy in the eyes of some, as scholars have previously noted (Whitlock 2006:27). Such criticism, however, does not acknowledge either the value of natural testimony as the RCAP testimony was defined in the literature review in chapter two or the fact that no source of testimony is ultimately ever entirely objective (Portelli 1991:53). After collecting and reviewing this population of natural testimonies from a little over two thousand Canadian and Indigenous peoples who testified to RCAP, I narrowed down the number of relevant testimonies for my sample to a couple hundred based on the depth with which they discussed political, economic, or cultural land use in settler Canada. These testimonies were then further divided into several, more specific categories, categories defined along an array of different types of social relations with the land. These categories included testimonies from Indigenous testifiers from nations in British Columbia, from the Inuit, Innu, Lakota, Mi'kmaq, Métis nations, and testimonies from Indigenous and Canadian peoples within treaty territories covered by the numbered treaties; testimonies from people within territories governed by non-numbered treaties such as the Two Row Wampum and Mi'kmaw Peace and Friendship Treaties, and territories not covered by any treaties at all. In turn I then went through these testimonies

once more, re-reading them as Dampier (2008) might say, with the same focus on the social relations with land but through the prism of the combined tcr-tcr framework that developed over the course of the duration of my collection, selection, and review of the RCAP testimonies.

At the end of this review, I had twenty one testimonies about land use in settler Canada in my sample that I decided to narrate into short stories for the purpose of further analysis. These narratives included eleven counter narratives from Indigenous people and ten cultural narratives from Canadians. The counter narratives from Indigenous people who testified encompassed tales about the land from territories covered by the following numbered treaties: 4, 5, 6, and 8, respectively. They also covered Algonquin and Haudenosaunee territories that fall under wampum agreements, the Peace and Friendship treaties between the Crown and the Mi'kmaw nation, and nations and organizations not covered by treaties at all at the time of RCAP including nations from British Columbia, the Lubicon Cree nation, and the Innu nation. Nations represented in these testimonies include the Nakota and Dakota nations, the Métis nation, the Sayisi Dene nation, the Ermineskin Cree nation, the Tallcree, Little Red River, and Dene Tha nation; the Boyer River nation, High Level nation, the Algonquin nation, the six nations that comprise the Haudenosaunee Confederacy, including the Mohawk, Oneida, Onondaga, Seneca, Cayuga, and Tuscarora nations, as well as the Mi'kmaw nation, Tzeachten nation, Stó:lō nation, Lubicon Cree nation, and the Innu nation.

The testimonies collected from settlers were divided into three main categories. These categories were premised on the understanding developed in the CRT literature of

narratives as either referencing broader social relations or not. The narratives built from the settler testimonies that failed to construct a connection to broader settler colonial relations endemic to North American society were categorized as cultural narratives as they are known in the CRT literature (Ingram 2013; Richardson 1990; Delgado 1989). As this study demonstrates the settler testimonies chosen for this study did not make a connection to these relations in a particular way, relying on the language of the liberal order framework to do so. A second category of settler testimony was premised on the idea of making these connections clear. If settlers in their testimonies referenced or discussed settler colonial relations in some way – if they made clear that individuals exist in settler Canada within social relations in which colonialism is systemic and rife with inequality, then these testimonies were categorized as potential counter narratives. These testimonies were few and far between, however, and were not narrated into short stories for the purpose of this study. A third category of settler testimonies was conceptualized in this study as some sort of cultural-counter hybrid wherein testimonies from settlers exhibited this ability to make connections between the individual and wider colonial social relations while simultaneously at times effacing this connection in another context. The ten settler testimonies selected for further narrative analysis spoke in depth about land use and were conceptualized as cultural narratives in the analysis because they failed to make a connection to the wider world of colonial social relations endemic to settler Canada. They erased this connection in a peculiarly liberal kind of way which required the racialization of the national identity of Indigenous peoples using a common sense notion of ‘race.’

These cultural narratives came from settlers who represented diverse settler organizations that fell under several different categories including business interests, fishing interests, land-owning interests, labour unions, and non-profit, conservation organizations. Specifically these organizations included the Prospectors and Developers Association of Canada (PDAC), Nicola Stock Breeders Association (NSBA), British Columbia Federation of Agriculture (BCFA), the Alberta Fish and Game Association (AFGA), United Fishermen and Allied Workers Union (UFAWU), Prince Edward Island Fishermen's Association (PEIFA), British Columbia Fisheries Survival Coalition (BCFSC), Canadian Labour Congress (CLC), and the Canadian Wildlife Federation (CWF).

I selected RCAP testimonies for further analysis in this study because they were specifically about land use in settler Canada and because of their detailed reference to this topic. Following in the footsteps of Brayboy (2005) and other Indigenous scholars who observe the link between story and theory in the knowledge systems of Indigenous peoples, this analysis consisted of narrating the twenty one testimonies into small stories with the idea that these stories in turn would act as bundles of theories which provides data that I argue in later chapters helps to provide a snapshot of the nature of land use in settler Canada. I argue this data is desperately needed given how little knowledge settlers actually have of settler colonial relations (Amadahy and Lawrence 2009), and the ongoing debate about the nature of settler colonial relations and the settler identity (Sharma 2015; Kaur 2014; Amadahy et al. 2009; Sharma and Wright 2008; Lawrence and

Dua 2005). The findings from this study contribute to the discussion in both of these capacities.

The twenty one testimonies selected for further analysis that produced these findings were narrated according to the method of dialogical narrative analysis where what matters most is “... to witness, in the simplest sense of gathering voices to give them a more evocative force so that these storytellers could hear each other, and so that they could be heard collectively” (Frank 2012:36). In this case the storytellers may not have the chance to hear each other, but the readers of this bundle of stories built from RCAP testimonies by this narrating sociologist will hear the collective story they tell. From then on they may do with them whatever they would like, but to paraphrase Thomas King (2003), it is impossible to say you did not hear them. DNA is an analytical process coined by Flyvbjerg (2001) that also goes by the much more technically sounding name ‘phronesis’ (as cited in Frank 2012:43). The process of phronesis, which is “... a process of constantly rethinking theoretical ideas as the transcripts [are] reviewed ... [and] constantly returning to the data and reconsidering what ... was there” (Chanteloup 2003:56), was utilized to build the twenty one RCAP testimonies into narratives. Testimonies from RCAP were continually read and re-read throughout the analytical process if they spoke in some depth about the nature of relations with land in settler Canada. I kept careful track of every relevant testimony about social relations on the land using a spreadsheet software program. In quantitative terms, I saw myself with a data set, a population of RCAP testimonies, and I wanted to see what, if anything, my sample of



testimonies revealed about land use in settler Canada and the settler identity after they were narratively analyzed with a combined TCRT and CRT approach.

From a more qualitative yet artistic standpoint, perhaps my favorite one, Frank (2012:43) explains that this process of phronesis is best considered akin to a craft, or

... an iterative process of hearing stories speak to the original research interest, then representing those stories in writing, revising story selections as the writing develops its arguments, and revising the writing as those stories require. The analysis of selected stories takes place in attempts to write.... Rather, reports emerge in multiple drafts that progressively discover what is to be included and how those stories hang together. In DNA, stories are first-order representations of life, and writing about stories is a second-order act of narrative representation.

In the case of this study, the stories hung together because each one detailed the social relations to the land of the people testifying. The topic of social relations with the land anchored each narrative analyzed in this study. Such an approach is advantageous for two primary reasons. The first reason is because knowledge of these social relations comes from the perspective of those who actually practice these social relations upon the land. Given the tendency for powerful forces in the context of SCRs to silence the stories of non-powerful actors (Delgado 1989), hearing the stories of those who are colonized, for example, in relation to the stories of the colonizers has the power to inspire the crafting of resistance narratives capable of challenging settler cultural narratives (Nandorfy 2009:339). The second reason builds upon the first as a second-order act of narrative representation allows the sociologist as narrator to explore the first-order act of representing life with the assistance of sociological theory and Indigenous knowledge perspectives. The act of narrating stories from RCAP testimonies and then writing about

and analyzing these stories generates a rich understanding of land use in the context of settler colonial relations and hence the settler identity.

Testimonies to RCAP were given in 96 different communities across the country by many different nations and peoples. These testimonies were presented in a wide variety of contexts to diverse audiences. Community halls, school gyms, and friendship centres were often filled with onlookers and commission participants whenever RCAP passed through regions and towns to which RCAP travelled (Chanteloup 2003). Occasionally, after a particularly stirring presentation, the transcriber would write ‘Applause’ into the testimonial record. This gives one a sense of the public nature of the commission and the audiences that could gather to observe and participate in the proceedings. Although told sparingly, there were some that were considered sacred stories presented during the RCAP proceedings. However, such stories were not utilized in this study. Heeding the advice of Vine Deloria Jr. (Faye 2001:164) and others (Wilson 2008), I made a conscious effort not to utilize stories given to RCAP that were identified as sacred during the commission’s tenure seeing as I did not have permission to do so for this study. Others who testified to RCAP provided stories about themselves and particularly significant experiences in their personal lives (Chanteloup 2003:45). When they make reference to relations upon the lands of Turtle Island these stories do make an appearance throughout this study because they are windows into the settler colonial relations experienced by the presenters, and act as learning opportunities for all of those interested in specifying the settler identity and the settler colonial relations in which it arises.

One note of caution is in order, however. It was not possible to read every testimony. I was limited by the translation of the testimonies as much as I was blessed by them. I was blessed in a sense because mostly every testimony done in Inuktitut, Mohawk, Mi'kmaw, Métis, Innu, or other Indigenous languages was translated into English. That said, in some cases parts of testimonies spoken in these languages were not. In these cases they were either phonetically translated by RCAP transcribers, or not translated at all. The same cannot be said about testimonies given in French, however. RCAP testimonies done in French contained no English translation unless parts of the testimony appeared in English as when, for example, an English-speaking commissioner responded to a French-speaking testifier. This meant that testimonies done in French did not form a part of the analysis. This was a serious weakness in testimonies from companies such as Québec Hydro, for example, an important, if controversial character in the story of Indigenous nations in Québec such as the Cree.

Since the RCAP testimonies are secondary data transcribed by people paid by the Canadian government, an institution considered colonial by most Indigenous individuals who testified, certain methodological considerations were taken into account during the production of this study. Firstly, as Chanteloup (2003:47) observes,

By using the transcripts of a lived event, we are already dealing with a written interpretation. The act of transforming the spoken word to the written involves interpretation on the part of the transcriber underscores the additional question of what we are left with when we read the transcripts.

What we are left with is a product by someone that was compelled to collect the oral testimony as well as interpret the cues or body language of those who testified, which inevitably means the “... transcript selects certain dimensions and contents of discourse

for inclusion while ignoring others” (Chanteloup 2003:45). For example, as a transcriber “... one must make decisions about representing spaces, silences, overlapped speech and sounds, pace stresses, volume, inaudible and incomprehensible sounds and words” (Chanteloup 2003:45).

Those who testified were also interacting with commissioners acting like social scientific researchers in a sense. RCAP commissioners could interview and ask questions of those who testified after the finished testifying, meaning they could steer the conversation in the direction they desired (Chanteloup 2003:48). Chanteloup (2003:43) suggests that the commissioners of RCAP “... made decisions concerning what data to collect and thus may not have collected what other researchers who access the data source require to address their own research questions.” Given the distance between sociological researchers and the RCAP participants, is it possible to accurately represent the perspectives of those who provided testimonies? As Chanteloup (2003:49) warns, “Using transcripts of narrative means that we are left with an interpretation of experience; experience that has previously occurred in time and one in which we did not have the opportunity to participate, thus making the relationship between story and experience that much more complicated.” But does that mean a narrative analysis of these experiences is not necessarily of value, educational or otherwise?

I undertook this study because I believed there was educational value in narrating the RCAP testimonies as I thought the nature of the settler identity in the context of SCRs may become a little more apparent within narratives about the social relations people in settler Canada form with the land. Historically, such stories from Canadians have

facilitated the reproduction of SCRs as settler Canadian stories about land have concealed the violence against Indigenous peoples by settlers, particularly violence against women and children (Anderson 2011; Monture 2007:208) that facilitates the twin processes of assimilation and genocide inherent to colonialism (McVeigh 2008). Hence there is an overwhelming need to understand SCRs and the settler identity in order to re-story settler Canadian narratives (Regan 2010) for as Monture (2007:211) notes:

Land and dispossession – Aboriginal nations only have the right to occupy marginal space, space the white settlers found undesirable – is a repetitive theme running through Canada’s colonial history.... The dispossession from land results in social and economic isolation, and this is causally connected to the violent deaths of Aboriginal women.

This violence, according to Simpson et al. (2011:297-298), maintains “... the privileges that colonialism bestows on settlers and Canada as a nation.” With so much at stake, with so much damage to repair and violence to prevent, is it perhaps possible that sharing and comparing stories is but one example of the kind of work capable of decolonization that can resist assimilation and colonisation?

#### **XIV. Sociologically speaking, what’s a story?**

Stories may be integral to the processes of colonization and decolonization, but sociologically speaking what exactly is a story and what are counter and cultural stories in the context of critical race theory in particular? To answer these questions it is perhaps best to first define what stories are by defining what stories do. As mentioned earlier in this study, narratives act as theories according to the Tribal Critical Race Theory framework (Brayboy 2005), capable of exploring through storytelling the colonial relations endemic to North American social relations. In a broader sense, narrative

theorists also suggest that we rely on stories when we encounter phenomena in the world which are unfamiliar, strange, or disturbing (Polletta 1998:422). Stories help us make sense of these phenomena. Other theorists suggest that stories are inherent to the human mind (Couros, Montgomery, Tupper, Hildebrandt, Naytowhow, and Lewis 2013:550) and that our whole lives and social relations are narratively structured all of the time - meaning stories form a web of life and help us make sense of our place within it (Polletta 1998:439; Richardson 1990). Indeed, in the context of this web of life, Orbach (1997:455) clarifies that stories or narratives "... represent ways in which people organize views of themselves, of others, and of their social world." Stories "... simultaneously explain and evaluate, account for the past and project a future, and objectify their subjects through their telling" (Polletta 1998:428). We tell ourselves stories in order to make sense of the passage of time, to understand the consequences of our actions, and to plan for our future, as individuals, nations, and as peoples (Richardson 1990). Hence, we reason through stories but we do so within the context of narrative's dual nature as both a manner of making meaning and as a manner of reasoning (Richardson 1990). In other words, stories also help us bring meaning to the numerous, often disparate social facts that condition our lives by weaving them into a coherent view of the world organized by reason (Couros et al. 2013:550).

Structurally speaking, stories can be defined by their standard arrangement consisting of a plot, some sort of complicating element to propel the plot along, and a conclusion (Bell 2003:8). Frank (2012:42) lays out these respective elements in slightly more detail when he suggests that

A story begins with an *abstract*, which announces that a story will be told and often locates it within a genre. Next comes an *orientation*, which sets the time, place, and central characters. The core of the story is a *complicating action*, in which something out of the ordinary happens, requiring the characters to respond. The story moves toward its ending with a *resolution* to the complication and then an *evaluation* of what has happened: was it done well or badly? Finally, a *coda* marks the end of the story.

Sociologically speaking, theorists have noted that narratives can function in one of three ways, or in some combination of the three. The first is narrative serving as an object of analysis. The second is narrative acting as a method by which an analysis is carried out, and the third is narrative functioning as the product of a sociologist's analysis (Ewick et al. 1995:203). In the case of narratives as objects of analysis, sociologists tackle the sociology of narratives, or how narratives are constituted by communities of storytellers and what meanings can be derived from them (Ewick et al. 1995:203). In the case of narrative as a method for analysis, sociologists utilize stories as a means to understand the broader social relations within which we are all embedded. Whereas narrative as a product of analysis means that the sociologist becomes a storyteller in a sense, or a narrating sociologist, producing accounts of social life through sociological storytelling (Ewick et al. 1995:203; Maines 1993:17). In reality this study took on all three forms at different times, but it is its commitment to storytelling as a method of understanding that makes a narrative analysis within the sphere of sociology a natural fit with TCRT. This is because both place emphasis on the power of narrative to theorize social relations. In this study, I sought to produce some sort of coherent, storied account of social relations out of an otherwise incoherent bundle of facts generated within settler Canada at the turn of the twentieth century. Guided by a combined TCRT and CRT approach I became a narrating

sociologist using the creation and analysis of narratives as a means of generating insight into the nature of social relations, and in the case of this study that meant insight into the nature of the settler identity.

### **XV. The stories settlers tell**

A narrative sociology (Richardson 1990) partnered with an Indigenous methodology that emphasizes storytelling as theory building (Brayboy 2005) is a sound methodological approach to adopt given how storytelling has been integral to the formation and development of settler Canada. One of the earliest and arguably most racist narratives told by settlers in the context of settler colonial relations in Canada is about the founding of the country. The omission of Indigenous peoples from the telling of this national story of Canada's origins is accomplished through the plot line familiarly known as *terra nullis* in Latin, or empty lands in English (Razack 2002:3; Castellano 1999). In his testimony to RCAP, Harold Cardinal touches on this story, noting how European governments believed that "... by no more than having stumbled onto our territory, they gain[ed] sovereign ownership and jurisdiction and, as a result, that it is first our European nations rather than First Nations that have sovereign ownership of the land and territory." As this story goes, "... First Nations disappear even as minor actors in the historical drama after about 1800. The concept of *terra nullis*, Canada as an empty land in which settlers planted law and government, and over which nation-builders pushed iron rails from sea to sea, is the prevailing image" (Castellano 1999:94). Ila Bussidor, testifying on behalf of the Sayisi Dene nation from northern Manitoba, told the commissioners how her people

... had complete dominion over our lands for thousands of years as hunters and gatherers. The Europeans called our lands barren. To the Dene, our land was far



from barren. Our people had the caribou and our culture was perfectly adapted to caribou migration over the full extent of their annual range – tundra in summer and forests in winter.

By virtue of the so-called ‘doctrine of discovery,’ then, early European settlers and later Canadian ones, in their own eyes anyway, claimed ownership over lands they deemed empty (Simpson et al. 2011:295; Guerro 2003:61; Razack 2002: 129; Lawrence 2002:35; Morris, 1992:58), and erased Indigenous peoples as characters from the story of the founding of settler social relations upon the supposed empty lands of what would later become Canada.

Historically, as settlers alienated more and more lands belonging to Indigenous peoples across the country through fraud, violence, or the state, destabilizing Indigenous modes of production and ways of life, settler narratives evolved through a Eurocentrism which tried to justify the alienation, despite the disease, violence, and near genocide it wrought. It did so by depicting “... European settlers as the bearers of civilization while simultaneously trapping Aboriginal people in the pre-modern, that is, before civilization has occurred” (Razack et al 2002:2-3). This is also a frequently used refrain in the context of early 18<sup>th</sup> and 19<sup>th</sup> century liberal imperialism in general (Mantena 2007). In these settler Canadian narratives Indigenous peoples are depicted as culturally encased in amber and hence stuck in the past, incapable of living successfully in the present and doomed to extinction (Berger 1999:150). Chief St. Denis of the Algonquin nation testified to RCAP about the consequences of these narratives, saying that “Québec has been governing itself in relation to the Algonquins and other Indigenous, Inuit, and Innu nations based on the racist, early 17<sup>th</sup> century belief that the province was occupied by

‘infidels’ prior to the arrival of Europeans,” and hence the Algonquins and other Indigenous nations needed the civilization settlers offered in order to see the land developed to European standards (Manore 2013:51-52). This was the rationale the Haudenosaunee Confederacy talked about in the quote from the introduction: resistance to settler colonial development was justified in settler stories by suggesting this resistance was rooted in the racist idea that Indigenous peoples as a ‘race,’ even though Indigenous peoples are no such thing, lacked civilization. Settlers justified all of the horrible behaviour, policies, and damage wrought by colonialism in the name of assimilation as efforts to ‘civilize’ Indigenous peoples, leaving residential schools, murdered and missing Indigenous women, and suicide epidemics in the North in its wake.

More recently Canadian settlers have appropriated peacemaking narratives in an effort to distinguish Canadian colonialism from its American counterpart (Regan 2010). In doing so they are appropriating the peacemaking reputation of Indigenous peoples, which Regan suggests European settlers and their descendants did in order to convince themselves through the telling of their stories that ‘bearing civilization’ to Indigenous nations was a peaceful process. Canadians have embraced the false belief that the history (let alone the present) of settler colonialism in Canada was relatively peaceful especially in comparison to the supposedly more violent history of settler colonialism in the United States (Regan 2010:68; Thobani 2007:87; Kalant 2004:75; Lawrence 2002:26). They do so despite the work of researchers who are critical of any consideration of settler Canadian history as more peaceful than America’s (Lawrence 2002:44). To Regan (2010:68), these

Popular myths that shape our historical imaginary extol the virtues of the ‘pioneer spirit’ and the practices of ‘civilizing new frontiers’ and ‘settling empty lands.’ Stereotypes of Indigenous people as noble savages, violent warriors, victims of progress, and more recently, as protestors, rich Indians, and undeserving beneficiaries of race-based rights, are deeply ingrained in the Canadian national psyche, reinforced by popular culture and the media. These stereotypes informed policy decisions in the past and continue to do so today.

Razack (2002:72) suggests that settler narratives act as “... a justification for the denial of restitution for colonization, the backlash against Aboriginal harvesting rights, and policies of repression against Native communities.” In light of the way narratives have been implicated in reproducing colonialism and all it entails, critically engaging with settler stories which serve to reproduce the colonial status quo (Hulan 2012:56) in order to re-story the settler Canadian context (Regan 2010) becomes a necessary decolonizing endeavour.

In service of this goal, this study was modelled after Nandorfy’s (2011) lead and looked at settler stories in relation to Indigenous stories because “... the insights offered by Native storytellers are essential to any comparative reading of cross-cultural relations” (Nandorfy 2011:339). Such a methodology is also inspired by the work of Ewick et al. (2003:1346) who suggest that “... out of the exchanges of ... stories and the moral claims they make ... resistance practices become part of the commonly available narrative resources.” This study sought “... to provide opportunities not only for individual change through the telling of stories, and it seems social structural change through the enunciation of the elements of settler colonialism” (Monture 2007:208). Simpson et al. (2011) confirm the necessity of exchanging stories in a settler context even though the interpretive risk identified above is persistently present. According to them, “

... despite the risks involved in the production, evaluation and transmission of Indigenous peoples' stories as 'tactical histories' in cultural territories beyond their control, Indigenous organizations and collectives (such as the Council for Aboriginal Reconciliation and the Assembly of First Nations) continue to be committed to offering their stories as gifts which can initiate interracial communication" (Simpson et al. 2011:41). Such gifts are invaluable for enunciating the nature of the settler identity in the context of settler Canada.

#### **XVI. Linking a combined TCRT and CRT approach with the liberal order**

To develop the analysis in this study that is premised on the exchange of narratives about land use within the context of settler Canada I utilized a combination of critical race theory and tribal critical race theory. TCRT was necessary because of two key pillars central to the framework. The first is the theoretical assumption that colonialism is endemic or systemic to North American society. In other words colonialism is everywhere. It is prevalent in an almost totalitarian sense in North American individuals, culture, institutions, and social relations, and yet it is glaringly absent from discussion regarding contemporary social relations in the social scientific literature and beyond (Brayboy 2005). This has been cited as one of the reasons why TCRT was developed in the first place: the glaring absence of any mention of colonialism in social scientific literature, particularly within the literature on critical race theory (Padgett 2012: 5; Brayboy 2005). The existence of social relations conditioned by colonialism, or what Coulthard (2003) might refer to as settler colonial relations, was a fundamental assumption at the beginning of this research project and it has been throughout its

development. This assumption was reinforced time and time again through my review of the RCAP testimonies.

A second pillar from the TCRT framework reinforces the importance of stories and storytelling to the worldviews of Indigenous peoples across the planet, and explains how stories in such worldviews act as theories that help people understand the world with which they are interconnected (Brayboy 2005). In Brayboy's seminal article that set the foundation for the development of TCRT (Padgett 2012) he recounts a story about a colleague debating whether or not stories were actually theories. This colleague did not believe working with stories could be considered a formally accepted equivalent to European-based theoretical frameworks found throughout universities across North America. When Brayboy told his mother about this conversation, she lamented how Brayboy's colleague failed to see the way in which stories contain as much theory as any of the ultimately European-derived theories dominating university research and lecture halls (Brayboy 2005:426).

From a methodological standpoint, this dissertation was guided by TCRT from start to finish because of the way in which TCRT centres colonialism and relies on the power of stories to function as theory. That said, in a similar theoretical fashion as recommended by Writer (2008), TCRT was combined with critical race theory (CRT) in recognition of the integral role racism plays in the reproduction of settler colonial relations. The central assumption of CRT, however, is that racism is endemic to North American social relations (Ingram 2013:5; Padgett 2012; Writer 2008; Brayboy 2005). Similar to TCRT, CRT makes use of narratives in CRT-driven analyses (Ingram 2013:5; Decuir et al. 2004;

Crenshaw, Gotanda, Peller, and Thomas 1995), only as mentioned TCRT perceives colonialism as endemic to North American social relations whereas CRT perceives racism as endemic. Owing to the fact that racism is so integral to the reproduction of settler Canada (Simpson et al. 2011), and because both frameworks rely on stories for their respective approaches, I decided to utilize a combination of both frameworks for this study.

In the CRT literature narratives are predominantly categorized into two categories when they act as objects of study. Those stories that are interpreted as counteracting racism because of the way in which they locate racism in the broader social relations are categorized as counter stories (Ewick and Sibley 2003, 1995: 223; Bell 2003:8), and such stories thrive in making the private public according to C.W. Mills famous theorem (Storey 2014:58; Ewick and Sibley 1995:219). According to Monture (2007:204) such narratives are powerful because they "...invoke the right of the subordinated person to narrate – to interpret events in opposition to the dominant narratives, and to reinvent one's self by bringing coherence to one's life stories." The stories that are seen as reproducing racism reproduce it by erasing the connection between racism and the broader social relations in which it exists, and as such these narratives are categorized as cultural stories in the CRT literature (Richardson 1990:127). About such stories, Delgado (1989:2437-2438) notes that they are used by those with power (such as settlers in the Canadian context, for example) to justify their privilege, as they utilize "... stock explanations that construct reality in ways favourable to it." In such stories, the perspectives of marginalized peoples are suppressed or erased (Henry and Tator

2006:122; Aguirre 2000:321-322). Cultural stories help maintain the status quo because they are stories told from the perspective of the ruling interests of a social formation (Richardson 1990:127-128). Hence, Scott (1990:18) argues that such stories constitute a public transcript “... which reinforces and legitimizes the position of the dominant group” (as cited in Bell 2003:5) in part by not making any reference whatsoever to the social relations that sustain their privileged position.

In the context of this study the twenty one testimonies narrated into stories about land use inevitably divided into these two types of narratives. This CRT-based understanding of the narratives analyzed in this study is complemented by the assumption inherent to TCRT that colonialism is endemic to social relations in North America and that racism was integral to colonialism. As such those analyzed stories that were interpreted as reproducing colonialism by erasing its endemic existence were considered cultural narratives and those stories interpreted as not reproducing colonialism were seen as counter narratives because of the ways in which they highlighted the reality of settler Canada and the consequences for Indigenous peoples living within such a reality. In the case of RCAP testimonies from settlers it is clear that not all fall into the category of cultural narratives. As previously reviewed, settler testimonies exhibited a continuum in which when narrated they could be interpreted as falling along. Some certainly could be interpreted as counter narratives in the ways in which they highlighted the role of colonialism in settler Canada while others fell into a category that could be interpreted as resisting colonialism in parts and reproducing it in others. These testimonies were classified as counter-cultural hybrids, but they are not analyzed in this study.

In the cultural narratives about land use in settler Canada analyzed in this study the concept of ‘race’ could not be avoided, which is why this study sought to follow Writer’s (2008) suggestion to combine TCRT with CRT. Similar to other scholars, Brayboy (2005:429) criticized CRT literature because it assumed that racism is endemic to social relations whereas TCRT theorists postulate that colonialism is endemic to such relations. Yet like several Canadian scholars recommend (Simpson et al. 2011), this study assumes colonialism and racism are both endemic to social relations, but the argument put forward in the upcoming findings is that the language of the liberal order framework, particularly the language of equal rights, is integral to the process of racialization sustaining settler colonial relations in Canada (Simpson et al. 2011:298) at the time of the RCAP commission. This language relies on a taken-for-granted or common sense understanding of ‘race’ (Gotanda 2010:442) that racializes the national identity of Indigenous peoples by suggesting that when it comes to land Indigenous peoples as a ‘race’ have an equal stake in it like any other ‘race.’ The morals of the cultural narratives are connected based on this notion.

This chapter sought to clarify the methodological approach taken in this study. It began by exploring the value in studying testimonies, particularly the RCAP testimonies collected, selected, and reviewed for this study. In this section the benefits and drawbacks of using testimony as a data source were explored before the study moved on to consider the narrative aspects of the methodology employed in this dissertation. Following this section, the discussion in the chapter focused on explaining how stories were conceptualized in this study and what kinds of stories settlers have told in the context of



Turtle Island to provide some understanding of the history of settler stories and their continual evolution. Finally, the chapter concludes by exploring the combination of TCRT and CRT utilized in this study and how the liberal order framework helps connect these two narrative approaches to the study of racialization and colonialism in settler Canada by looking at the way the language of equal rights relies on a common sense or taken-for-granted understanding of ‘race.’

#### **Chapter 4 – An analysis of cultural stories**

The stories in the following analysis represent what scholars refer to variously as ‘stock stories’ (Tate 1997, as cited in Tupper et al. 2008:570; Delgado 1989:2440) or ‘cultural narratives’ (Richardson 1990). These stories are regarded as stories that legitimize the power, position, and privilege of what Tate (1997) refers to as the ‘dominant group,’ in terms of cultural, political, and economic power over social relations because these stories erase all mention or acknowledgement of the settler colonial relations in which all of North America is embedded (Brayboy 2005). They were narratively constructed from the RCAP testimonies. The forthcoming narrative analysis demonstrates how the morals from these cultural narratives rely on common sense beliefs about ‘race’ embedded within the liberal order framework. These morals are premised on the respect for the equal rights of individuals to access private property as protected by the rule of law in Canada. This is a moral position that justifies the opening up of all of the country’s resources regardless of whether or not they are Indigenous territories and protected by treaties or not (Brownlie 2009:309). The morals of these stories describe how the treaty and inherent rights of Indigenous peoples threaten the equality of settler land relations based on private property. Morals such as these overlook the racism, sexism, violence, and inequality experienced by Indigenous peoples in the context of settler colonial relations. The presentation and following analysis of cultural narratives explores land use in settler Canada and demonstrates how a liberal order-based racism relies on the idea of equality in terms of equal access to private property. Doing so effaces colonialism by racializing the national identity of Indigenous peoples.

## **XVII. Fenton Scott, Prospectors and Developers Association of Canada**

Fenton Scott, past president of the Prospectors and Developers Association of Canada (PDAC), told the commission that the companies he was representing were worried about the uncertainty they would experience in the wake of the creation of Nunavut. With the Nunavut Agreement, the Inuit people's longstanding title to lands in the north had finally been recognized by the Canadian settler government. This agreement also recognized the Inuit's title to the resources and minerals upon these lands. This troubled Mr. Scott and the 2,000 active members of the association he once represented in the past but was now representing once again in front of RCAP (officially his presentation was on behalf of PDAC, although it was not approved by PDAC's board of directors he told the commissioners). After a rather progressive beginning to his presentation in which he cites the impressive involvement of Indigenous, Inuit, Innu, and Métis or who he refers to as the 'First Canadians' in the mining sector across the country, the question about land ownership in Canada dominates the rest of his testimony. Specifically, Mr. Scott is interested in addressing the 'unequal,' in his eyes, social relationships to land in the wake of the Nunavut Agreement are his main concerns.

At one point, Mr. Scott's testimony actually contradicts the settler narrative of Canada, a narrative that as mentioned in the previous chapter has historically excluded the overwhelming influence Indigenous, Inuit, Innu, and Métis peoples and nations have had on the founding of Canadian governments and state discourses (Razack 2002; Castellano 1999). In his testimony to the commission Mr. Scott notes how resource extraction has been taking place in this continent since time immemorial. According to Mr. Scott, the

European system of mining which has led to the vast accumulation of capital would not have been possible without the assistance of ‘First Canadians.’ As Mr. Scott puts it,

Our First Canadian ancestors [played] an important, we might say pivotal role in discovering the many, we might say most, of Canadian mining camps. Prospectors associated with Samuel Champlain were led to copper, lead and silver showings including the Mines Gaspé in Quebec. This was in the first decade of the 17th century. Since that time the contribution has continued. The Yukon owes its settlement to two First Canadian prospectors and their brother-in-law who made the discovery of gold at Dawson Creek. At the other end of the continent, the fabulously rich Buchans Mine in Newfoundland which kept that island eating for 50 years was a native Canadian discovery. Helms, here in Ontario with three mines, produced most of Ontario's gold and they owe their existence to a First Canadian prospector from Pic River. The giant iron ranges of Quebec and Labrador were known for centuries to the native Canadian trappers and hunters, who mined silica there prior to the arrival of Columbus.

His use of the phrase ‘our First Canadian ancestors’ is a bit confusing in this context as the peoples he is thinking about are not of European origin as the ‘Canadian’ in ‘First Canadian’ implies. Nonetheless, it is an impressive history in a presentation that begins by attributing the development of the mining industry in Canada to Indigenous, Métis, Inuit, and Innu peoples across the country. If it could be measured, one wonders how much of the benefits these founding miners have seen from the industry in their traditional territories in terms of jobs and royalties.

He then takes the Canadian government to task for getting in the way of the mining industry accumulating even more capital in the north by restricting the amount of days a group of three or more people in a tent on a unit of land can stay there to a one month maximum, and severely curtailing the rights of mining corporations to lands in Nunavut. According to Mr. Fenton, this is another way that ‘First Canadians’ are losing out, despite the fact that the Canadian government finally recognized the Inuit’s long standing social

relations with their lands in the Nunavut Agreement. At first calling the lands recognized as the Inuit's by the Nunavut Agreement 'pitiful,' Mr. Scott changes his tune rather drastically a few seconds later. As he shockingly concludes,

Right now we would like to look at the status of these Nunavut mining lands. They are in limbo, benefitting no one, awaiting some distant Ottawa decision. By the time that decision is made and we want to point out that Nunavut welfare has no priority, the rush will be over. The prospectors, including those Nunavut prospectors, will be gone somewhere else. The land will be moose pasture, or in this case we call it caribou pasture, again. Another item that came out in the Nunavut mining lands. The map of the mining rights dedicated to the people of Nunavut show one glaring deficiency, symptomatic of the contempt that Ottawa seems to extend to all northern people. I would say 'seems to extend'. I don't think it is deliberate. But on this map it turns out that Nunavut mining lands only get hard rock geology. That is gold or copper, that type of rocks. The obvious conclusion is that the people of Nunavut, which is dominantly Inuit of course, are not sophisticated enough to collect royalties.

After summarizing this Eurocentric and racist thinking attributable to the Canadian government, Mr. Scott suggests that the taxes and royalties from any of what Mr. Scott refers to as 'our frontier resources' go to 'First Canadians.' Later on he clarifies that he believes revenues should be controlled by Inuit peoples, but not the actual resources that generate the revenues. He calls for unity and equality for all Canadians. As Mr. Scott says, "Canada has no need to develop apartheid, nor to set up special privileges or special disincentives based on racial differences. We feel this country is divided enough." The unity he is seeking is one which there is universal access to all the lands of Canada, no matter what stories, treaties, languages, or people exist upon them at the time. This is the unity the members of Mr. Scott's association seek. As he says, "Canadian mining has always stood up for equal rights for all prospectors to enter, explore and stake claims on

all lands, no matter the ownership of the surface rights. Lands not open for exploration are prospective losses to our national wealth.”

His solution to the problem is that it is okay to cede lands back to ‘First Canadians’ and cede the resources derived from those lands back to ‘First Canadian’ stewards of the lands, but Mr. Scott implores the commissioners to open the lands up to anyone who wants to prospect anything anywhere on these lands, regardless if they are lands protected by treaty or not. He then criticizes unions for not exporting skills to ‘First Canadians’ and declares that because of different reasons, a ‘useful’ education has been denied ‘First Canadians.’ Rather optimistically, Mr. Scott says that Canada has a chance to profit from the complete neglect of the educational sector of ‘our First Canadians,’ by funding that education now, in the present. He then concludes by awkwardly acknowledging once more the role of ‘First Canadians’ in developing the mining industry in the country, saying that “In summary, we do not consider the descendants of Canada's First People to be Aboriginal, in the common sense of the word. These people have been full fledged partners in the development of Canada's valuable mineral resources. We must ensure that this partnership continues.” The ‘common sense’ way he is referring to has something to do with his comment that he gave at the beginning of his testimony when he noted that the term ‘Aboriginal’ is a derogatory term to Canadians (this logic was why he used the term ‘First Canadians’), but is commonly used by them.

Commissioner Dussault responds first to Mr. Scott and asks him if he is aware of the agreement signed by the Inuit in the Northwest Territories that provide them with significant oil royalties, a fact to which Mr. Scott is not aware. Commissioner Dussault

then asks Mr. Scott to clarify his position on unions not exporting skills which leads Mr. Scott on a fairly lengthy critique of unions before the commissioner leads him back to the topic of the Nunavut Agreement. According to Mr. Scott, the normal Canadian standard is that “... all land is open. If there are areas which are drawn and the Federal Government says okay, any royalties that come from that don't go to Ottawa, they go to the local people, then the local people are far better off. I can go in a prospect and you can go at the same time and our competition makes things even better and the local people are far better off than they are right now.” Commissioner Dussault suggests that this is a rather bold approach, but Mr. Scott disagrees, “It isn't bold. The one that I am suggesting is the one that is worldwide. This business of going back and restricting areas, this is going back, if you don't mind, to primitive societies. I can go to Indonesia and get concessions. I would like to go there and prospect first.” Commissioner Dussault then turns the questioning over to Commissioner Mary Sillet.

Commissioner Sillet begins by asking Mr. Scott if he knows what the mining capabilities of the Nunavut region are, which he certainly does. As he says, “... there are three mines now in Nunavut. They are all lead-zinc mines, one will be shut down fairly shortly and I would say that the mining possibilities are fantastic. There is at least 20 bodies of lead-zinc and copper, good grade and there is ten gold deposits that I know of all of which need transportation to make them viable. As prices go up transportation will come in. Now it looks like there are going to be three or four diamond mines.” Commissioner Sillet then questions his idea about lands being open to any prospectors while revenues remain locally controlled. The current set up through the Nunavut

Agreement means that a lot of land in the region has been removed from the reach of prospectors and placed in the control of the Inuit community. Commissioner Sillet responds by stating that, yes, it has taken away land from prospectors' unfettered access but it has " ... given a lot of land back to the Inuit in doing that. Has it done that? In removing that possibility of prospectors, has it given that land to Inuit?" she asks Mr. Scott. He responds rather insightfully saying that

The Inuit had it anyway. It is just a matter of giving or taking. If I had my deal when they were making those land claims I would have taken all of the mining rights in the Nunavut area and given it to the people, not just little spots like measles and then with the understanding that these people would let anybody prospect on them, stake claims on them but they were going to get the real profits. That is where the money comes from.

He concedes that the Inuit in Nunavut have been 'given' their traditional territories but they are, in his words, 'removed from profiting from them.' He concludes his testimony with an obvious threat, stating of Nunavut, that " ... if the mining industry is forbidden from working up there or exploring there will be no mines."

#### **XVIII. Bob Neale - Nicola Stock Breeders Association**

Bob Neale, president of the Nicola Stock Breeders Association (NSBA), presented in Merrit, BC on November 5<sup>th</sup>, 1992, not long after the failure of the Charlottetown Accord and its proposed constitutional changes that would have recognized Indigenous, Inuit, Innu, and Métis forms of self-government as a third form of government in Canada. At the time of Mr. Neale's presentation the only treaties signed in the whole province were Treaty 8, which only covers part of the northeastern edge of British Columbia, and a series of treaties known as the Douglas Treaties governing Vancouver Island. The Douglas Treaties followed a line of colonization that began with the arrival of the British



navy at Nootka on Vancouver Island in 1778 (Berger 1999:143). According to Berger, the Hudson's Bay Company established Fort Victoria on the same island in 1841, but it was not until the island was made a colony of the British Crown in 1849 that European colonisation intensified. The Douglas Treaties were adopted as policy by the governor of the colony at the time, James Douglas, but imperial authority in London ended this policy because of the cost implementing these treaties. As Berger (1999) notes, settlers in the colony on Vancouver island and the colony on the mainland disagreed with the part of policy that would see colonists pay for the costs of compensating Indigenous peoples for their surrendered lands. As a result

they would not vote funds for the purpose. The colony's House of Assembly had at first acknowledged aboriginal title, but when the House realized that the money for the extinguishment of aboriginal title would have to be provided locally, it began to insist there was no such thing as aboriginal title and no obligation to compensate.... The mainland colony of British Columbia, established in 1858, also adopted this policy. When the two colonies were united in 1866, the policy continued (Berger 1999:143).

The consequence of this policy was the near genocide of Indigenous peoples in the colonies of the British Columbia. Berger (1999) estimates that ten years before the turn of the twentieth century the population of Indigenous peoples in the province had declined from fifty thousand to ten thousand. In just over half a century, settler colonialism and specifically settler-carried diseases brought the original peoples of the northwest coast to the brink of genocide. At the time of Mr. Neale's presentation the Douglas Treaties still had not been implemented by any level of the settler government despite the tragedy a lack of treaty protection entailed and continues to entail in the province.

Mr. Neale begins his presentation by noting that it will represent what he says are the primary concerns of British Columbia beef cattle producers. He is worried for these producers as it seems like the renewed treaty making process that was just beginning to take shape in the early 1990s in British Columbia was proceeding without taking the time to properly consult the province's beef producers. In a very narrative fashion, Mr. Neale opens his presentation by providing some context in order to better acquaint the RCAP commissioners with the nature of his organization. The NSBA is a member of the province-wide British Columbia Cattlemen's Association (BCCA), which in 1992 had over two thousand members. The NSBA represents stockbreeders and ranchers in Merrit, British Columbia, as well as Lower Nicola, Quilchena, Douglas Lake, Coalmont, Logan Lake and Kamloops. Although he does not provide the exact number, Mr. Neale tells the commissioners that there are, as he says, Aboriginal cattle producers who make up some of these two thousand members and according to Mr. Neale they make excellent members as well as neighbours. He proceeds to detail his association's perspective on the social relations of ownership in regards to the land in the province's boundaries. What concerns British Columbia cattle ranchers the most is the Crown land in the province as they need certainty when it comes to accessing this land for their cattle to graze. This land makes up 8.5 million hectares of the province's 95 million hectare landmass, according to Mr. Neale. In fact, without this certainty, Mr. Neale suggests that the entire industry would be in jeopardy, for as he says, "These concerns relate to the eventual outcome of the debate surrounding native land claims. With almost all of the beef cattle industry in the

province totally dependent on forage on Crown lands, any ill-conceived concessions to native people by governments as to the control and management of these lands, creates an atmosphere of insecurity.”

Mr. Neale proceeds to cite an example of a ‘joint stewardship’ program between the province and the Fountain or Xaxli’p nation near the town of Lillooet, BC as an example of what contributes to an atmosphere of insecurity. This is because it was conducted without any dialogue with the ranchers in the region and sets the stage for the Xaxli’p nation to control the land, water, and forest resources in their traditional territory. He then lists the four points that constitute the BC Cattlemen Association’s policy when it comes to sharing the land with their Indigenous and Métis neighbours. The first is that restrictions be built into any agreements so as to ensure, in Mr. Neale’s words, “ ... that all Canadians are treated equally and fairly.” The second is that any agreement must lead to the extinguishment of Indigenous peoples’ title to land, although he is clear this does not mean the extinguishment of self-government powers, just title. The third policy plank of the BCCA is that they, and other third parties, be involved in the treaty negotiation process. The fourth and final point of their policy is that in the event of a settlement involving land, a cash settlement is preferred to a settlement that involves resources. In Mr. Neale’s words,

The Nicola Stock Breeder's Association fully supports the initiatives to settle Indian land claims. At the same time, we suggest extreme diligence must be applied to the development of any new programs or policies to ensure in the process that all Canadians are treated equally and fairly. As our policy states, we support the inherent right to self-government by Aboriginal peoples, but hasten to add also our agreement with the statement in the 1992 Constitutional Accord that no new rights to land should be created. In other words, all Canadian should have equal rights.

Mr. Neale goes on to say that the members of his organization were concerned by the recommendations of a 1991 report produced by a British Columbia task force on treaties. One of the recommendations of the report stated that the provincial and federal governments would represent third party interests at the treaty negotiating table. Mr. Neale felt this would not be acceptable to cattle producers in the province. Although his organization is okay with the signing of the Treaty Commission Agreement on September 22<sup>nd</sup>, 1992, Mr. Neale repeats again that he is concerned that third party interests are not equally represented at the treaty negotiating table in British Columbia. He makes the point that his organization supports the absolute protection of privately-owned land, and he also makes the point yet again that all his association is seeking is equality, in the sense “that Aboriginal peoples should be granted the same rights and privileges of the use of Crown lands as those currently offered to all British Columbians, including the beef cattle producers, within the laws of Canada and the province.” In the conclusion of his testimony he once again reinforces this point that “Aboriginal peoples should be granted the same rights and obligations to Crown land as other British Columbians are, but no more.”

The commissioners briefly discuss Mr. Neale’s comments. Co-chair René Dussault responds by telling Mr. Neale that the concern about the inclusion of third party interests in treaty negotiations is an issue that the commission will examine in more detail. Commissioner Chartrand notes that Mr. Neale makes some important points in regards to the uncertainty of the law. Mr. Chartrand agrees that “... uncertainty is something that ought to be removed,” but he is also careful to mention in the conclusion of his response

that “Aboriginals have and continue to live with uncertainty in respect of this and many other aspects of their lives. That, of course, is no reason to wish to visit the same uncertainty upon anyone else.”

#### **XIX. Cor Vandermeulen, British Columbia Federation of Agriculture**

Cor Vandermeulen presented on behalf of the British Columbia Federation of Agriculture (BCFA). Mr. Vandermeulen is from the Northern Interior region of British Columbia and he begins his testimony by noting that he has been appointed to the Treaty Negotiation Advisory Committee (TNAC), replacing the last committee member who failed to attend any meetings previously held by TNAC. The TNAC was established by British Columbian landowners in the wake of the province’s renewed conviction to develop treaties governing land relations in a province which, at this point in 1993, had only signed Treaty 8 and the Douglas Treaties, although as previously mentioned Canadian governments have ignored the Douglas Treaties since their inception and Treaty 8 only captures a small, northeast corner of the province.

Without the need or desire to formally enter into treaties, British Columbian landowners developed a land owning system through their control of the colonial and then provincial authorities. In this system they owned private land, but, later, also purchased leases from provincial authorities for grazing pastures for their cattle. This context is necessary to understand one of the themes of Mr. Vandermeulen’s testimony; that is, how the treaty process is creating uncertainty for this landowning system and potentially unequal rights, but, as becomes clear fairly quickly, only so far as it concerns uncertainty experienced by non-indigenous, British Columbian land owners. The

uncertainty stems from a few things in Mr. Vandermeulen's eyes, including the language used by Indigenous leaders in the province, the indecisiveness of the provincial government, and the style of government Indigenous leaders wished to implement on the land. According to Mr. Vandermeulen and the BCFA, the treaty negotiations "... will give hereditary chiefs a major role in making decisions." Shortly after registering his displeasure with the greater role hereditary chiefs would play in a treaty-demarcated British Columbian political landscape, Mr. Vandermeulen registers his concern that the treaty process will result in social relations when it comes to land that are demonstrative of reverse racism.

In other words, as far as the land question goes, if the provincial government fails to answer the land question correctly in the eyes of the BCFA, then according to Mr. Vandermeulen the government risks creating a whole new set of injustices on top of the injustices already experienced by Indigenous peoples within the territorial boundaries of settler British Columbia. As Mr. Vandermeulen says, referring to his organization's brief,

In a previous paragraph I made reference to Native self-government. If substantial tracts of Crown land, interspersed with deeded land, are transferred to Aboriginal communities, then non-Aboriginal citizens will come, to a larger degree, under the jurisdiction of Aboriginal governments. This could bring with it problems that are inherent in a system where one race makes decisions that directly affect the lives of others.

He is tying this back to land use, suggesting that should some portions of Crown land come under the exclusive control of the hereditary chiefs, they will designate a use for these lands that contradicts the ways in which the ranchers in British Columbia use them. What is worse, this would not only create a racial disadvantage in the eyes of the members of the BCFA, a disadvantage that overlooks the reality of settler colonial

relations entirely, but, according to Mr. Vandermeulen, Indigenous peoples would receive absolutely no benefit from the use of the newly acquired lands. In his words, “Even though these Crown lands are turned over, the Aboriginal community cannot necessarily do very much with them. So the ranchers would be impacted immediately; whereas, the potential benefit to the Aboriginal community might not be there at all.” Commissioner Mary Sillet questions him about the BCFA’s notion that the land would be of no use to Indigenous peoples in the province and Elder Dave Parker who is acting as a commissioner for the day during this session points out an omission in the BCFA’s judgment. As he suggests, once the land is back under Indigenous control then the British Columbian ranchers can pay their grazing fees to the Indigenous nations managing those lands without missing a beat.

This answer does not seem to satisfy Mr. Vandermeulen. He responds to the Elder that the social relations surrounding the lands in question will come under the control of hereditary chiefs. The problem with such a set up according to Mr. Vandermeulen is that there would be no checks and balances and as a result the British Columbian ranchers would be at a disadvantage. Mr. Vandermeulen does not seem to have much confidence in any sort of land management system in which non-indigenous British Columbian ranchers have no control. This lack of control over vital tracts of land creates a level of uncertainty that the members of the BCFA find troublesome. According to Mr. Vandermeulen, it would seem the only cause for uncertainty in the social relations of the land can be found within Indigenous political economic leadership structures. Mr. Vandermeulen veers away from this line of questioning and concludes his testimony with

a plea for certainty and a plea that the ranchers of British Columbia are consulted at every step of the process to treaty with the Indigenous nations in the province through the Treaty Negotiation Advisory Committee. This must have sounded like an ironic plea to Indigenous peoples at the commission hearings that day given their own calls to be consulted about development on their lands have been ignored for centuries, and their participation in the current land owning system in the province already proves they are more than capable of producing stable, secure social relations when it comes to land.

#### **XX. Andy Von Busse, the Alberta Fish and Game Association**

Mr. Andy Von Busse represented the Alberta Fish and Game Association (AFGA) before the RCAP commissioners on two different occasions. Bringing the organization's concerns to the fore, Mr. Von Busse let the commissioners know that the AFGA's main concern was with, as he says, existing native hunting and fishing rights protected by treaty. Mr. Von Busse acknowledges at the outset that the view they are presenting to the commissioners is one subscribed to by many non-natives. He begins his testimony by calling the commissioners attention to their own terms of reference, particularly to part eleven of the terms of reference, that is, "... protection of traditional hunting, fishing and trapping ways of life." From here Mr. Von Busse questions the nature of what constitutes these traditional activities, stating that the Alberta Fish and Game Association "... respectfully suggests that traditions are something that changes in all societies." To drive his point home he suggests an example: "... Treaty 6 and Treaty 7 Indians in Alberta traditionally subsisted through the hunting of buffalo and, of course, that tradition is not something that could be carried out today because of other changing circumstances."



After using the story about the buffalo to make his point, Mr. Von Busse summarizes for the commissioners the crux of his testimony – the unlimited, in his eyes, hunting and fishing rights of Indigenous peoples, which are protected via the numbered treaties, 6 and 7, that cover Alberta. In his words,

In today's environment we feel it is unrealistic that natives have unlimited hunting and fishing rights in the areas that they have right of access to. Both the federal and provincial governments have recognized the importance of maintaining wildlife in a healthy and valuable state. There are many laws and regulations that provide a degree of control over the activities of mankind that affect wildlife; control of pollution, hunting and fishing regulations and the general impact studies on dams, roadways and other industrial activities. We feel the only uncontrolled factor right now is the unlimited hunting and fishing rights of natives.

Mr. Von Busse is careful to couch his statement in some apparently diplomatic language stating that he believes that many Indigenous peoples and organizations exercise these rights responsibly, but that some peoples, according to Mr. Von Busse, practice methods such as "... night hunting, excessive netting at spawning times, the hunting of wildlife in the spring just before a new generation is being born, commercial-type hunting where refrigerated semi-trailers are brought into an area, often by status natives that aren't residents of this province. There are many other types of these abuses," he concludes.

According to Mr. Von Busse there are many witnesses to these alleged infractions of the rule of law, but he quotes none of them directly and none are present at the hearings that day. Curiously, given the nature of the asymmetrical power relations in this country due to settler colonialism, a social formation which has systematically sought to disempower Indigenous peoples in their own lands (Coulthard 2003:10), Mr. Von Busse diverges from this theme of resource abuse and suggests that "The current Constitution discussions are likely to result in renegotiation of the status quo with reference to natives in Canada.

Rather than these current discussions being a one-sided affair with native groups adding to their present power, we feel that these discussions can and must be used to rationalize some of these problems that are apparent under the existing regime.”

This problem of what Mr. Von Busse calls the ‘unlimited hunting and fishing rights’ of treaty Indigenous peoples stems from the fact, in his mind, that the social conditions at the time Treaties 6 and 7 were signed have changed dramatically. Specifically, Mr. Von Busse notes the concern settlers have with the growing population of the Indigenous peoples in these treaty territories and the effect the increasing population will have on the resources in the province, an ironic concern given the influx in the settler population in the last century and a half of Canadian expansion out west. As he notes in his testimony,

We feel the situation that existed at the time of the treaties were made don’t necessarily have validity in today’s date. A few reasons are such as this, that at one time natives were able to live their traditional lifestyle because of the relatively small numbers and in many cases the remoteness from developed areas and both they and the animals could accommodate unlimited hunting and fishing rights. Now natives are one of the fastest growing groups in Canada. Their numbers in many areas now exceed that that existed at the time the treaties were signed and it appears that trend will continue. We feel wildlife couldn’t cope with that pressure, even if primitive conditions and methods were used, but with modern technology such as four-by-fours, rifles, off-road vehicles, quads, that it can very negatively affect and quickly negatively affect game populations.

After these generalized statements about what he calls ‘Native’ land use, Mr. Von Busse returns to the constitution and targets its role, or lack thereof, in the regulation of the resource. In his words,

If the Constitution maintains or further allows a proven inequality of rights of Canadians, we feel if that issue continues to fester which in turn we feel promotes racism, inhibits positive attitudes from each other from a developing of all peoples of Canada. An issue with many people is that many Canadian taxpayers pay to manage the wildlife, both from license revenue and from general taxation. In the present regime their interests are inferior to a group which does not contribute

financially to that management. Wildlife management officials in many areas of Canada admit that they do not even know what percentage of game animals are being taken by natives and that's largely because of the refusal of native groups to co-operate with these departments. The argument we've heard is that such information could be used against them.

Mr. Von Busse then suggests that this issue of conservation should override the authority granted by treaties, and returns to one of his main points: that technological changes and population changes have meant that Indigenous peoples experience access and success in hunting and fishing to a degree that would not have been predicted when the treaties were signed. This, therefore, seems to negate the validity of these treaties in the eyes of Mr. Von Busse and his organization's members, and as a result they should not take precedence over existing provincial legislation regulating wildlife in the region.

Further to this, Mr. Von Busse suggests an additional layer of regulation that would prevent Indigenous peoples who are covered under a treaty and who do not live on a reserve from exercising their treaty rights. At this point in his testimony this is all Mr. Von Busse seems interested in doing: recommending ways to restrict the economic practices of the Indigenous peoples making a living in these treaty areas, although he does seem to see areas for cooperation. As he says, "We need a comprehensive information-sharing program with native people on the necessity of fish and wildlife conservation. Native peoples were the original conservationists. However, the mythologies that are now used allow a few dedicated abusers to decimate viable wildlife populations in many areas." Mr. Von Busse then suggests that utilizing treaty rights to protect wildlife resource use threatens the sustainability of 'Canadian wildlife' in his words, and helps place conservation of the resource in jeopardy, and this conversation of the resource

should be everyone's number one priority. As he says, "This is an issue of conservation first towards wildlife."

Mr. Von Busse then makes a rather interesting comment in consideration of the way racism has been implicated in colonialism in settler societies such as Canada (Simpson et al. 2011; Whitlock 2006:28). In his words,

... in order to eliminate the often acrimonious and potential racist conflicts that arise as a result of the present regime, hunting, fishing and trapping rights must be viewed as being fair to all Canadians. Any changes that contemplate further delineating rights or privileges on a racial basis will negatively affect feelings by a large number of Canadians on other issues which are probably more important.

He goes on to list some of those issues, including education funding, poverty reduction, and preventing family violence. Von Busse suggests that if the existing political economic relations persist then these issues will be ignored. Von Busse then ends his testimony by reinforcing his belief that the number one goal regardless of how things proceed is the protection of wildlife.

Commissioner Paul Chartrand is the first to respond to Mr. Von Busse upon the conclusion of his testimony. He makes a few brief comments to Mr. Von Busse, the most notable perhaps being his reluctance to agree with Mr. Von Busse's suggestion during his testimony that Indigenous peoples are overly emotional when it comes to issues surrounding the treaties. He then turns the floor over to Commissioner Allan Blakeney who relates a story to Mr. Von Busse. In his words, speaking of Indigenous peoples, "They would say, 'we got hunting and fishing rights, unlimited hunting and fishing rights in the treaties, in exchange for our surrender of title.'" Tellingly, Blakeney interjects here and says well "perhaps not title," and then he continues to speak from the perspective of

these unspecified Indigenous peoples, “but at least occupancy of a large section of the province, because we weren’t farmers and you said farmers were going to come in here and then we could hunt and fish. That was the deal, those people would farm and we would hunt and fish.” Blakeney continues and says,

They are busy farming the land and that the treaty people have a right to wildlife resource and if non-treaty people want to complain about conservation, that’s fine, but it’s not their problem. It wasn’t the resource set aside for them. It is no more sensible for white governments to talk about how we are going to conserve all of this, than it would be for Indian bands to say you are farming that land wrong... it is frequently not helpful to say that Indian people should have the same hunting rights as white people, I will use Indian and white, because they feel, hey, that wasn’t the deal. You are the farmers and we are the hunters and don’t bother telling us how to conserve. We’ve done it for 300 years or 3,000 or whatever. So that we have to get over these emotional blocks on the part of white people that somehow they are less than equal when it comes to wildlife, which to an Indian group it’s not an argument at all. They say, look you still have your land.

Mr. Von Busse responds and says he agrees with parts of what Commissioner Blakeney has said and then he responds: “That being the case, our position is that regulation where called for by a foreign treaty should certainly be implemented. It hasn’t been in practice and the need for conservation probably overrides the overall need. Because of the realities today as far as industry is concerned, agricultural access, harvesting methods and a number of others, we feel it really must be considered.” Thus the contradictory position of the AFGA becomes evident. On the one hand they agree with the implementation of regulation called for in what Mr. Von Busse refers to as a foreign treaty, but recognizing that such implementation has yet to be undertaken, now it is a mute point because this notion of conservation overrides what Von Busse refers to as the ‘overall need’ to consider the treaties. Commissioner Blakeney begins to respond to Mr. Von Busse by reiterating the story he told earlier about the Indigenous perspective on

treaties, but Mr. Von Busse interrupts him and asks him to refer to AFGA's written submission for more discussion on this perspective and the discussions among AFGA members leading up to it.

Commissioner of the Day, Pat Shirt, states another point completely overlooked by Mr. Von Busse during his testimony. He says to Mr. Von Busse, "One of the other things that I didn't see in your brief is I just wonder how much of the habitat of the fish and game has been spoiled by pulpmills and farming and you realize that maybe in Canada natives only own less than 1 per cent of the land. That doesn't leave very much hunting territory in the sense of what you are proposing." Pat Shirt ends his line of questioning by stating that, in relation to the recommendations in the submission presented by Mr. Von Busse, "it seems like the ones that benefit white people in terms of oil exploration, lumber and different things that affect their habitat, that seems to be okay, but all the rest in terms of hunting has to be negotiated with native people?" Mr. Von Busse responds to Mr. Shirt by noting how the AFGA is equally concerned about the effects some of the bigger industrial operations have had on the wildlife in the region. He ends the discussion by providing the commissioners with more testimony that reflects the divide-and-conquer storytelling strategies all too often practiced by the state (Kalant 2004:94), as Von Busse suggests that "90 per cent or 95 per cent of the population in a band" is responsible when it comes to resource conservation, but "... if you have a very small number of people who choose to be abusive because it's their right to hunt in whatever manner they wish and take out as many animals as they wish, I think we as an organization have an extreme problem with that."

## **XXI. Joy Thorkelson, United Fishermen and Allied Workers Union**

The threat to the economic security of workers is an ongoing plot element in the testimonies by union officials in British Columbia representing the United Fishermen and Allied Workers Union (UFAW). The union represents 2,200 shoreworkers, tendermen, and fishermen on British Columbia's northwest coast. According to Ms. Thorkelson, UFAW's northern representative, the union is comprised of approximately seventy-five to eighty percent Indigenous peoples. For all of its members she says, "The Union negotiates collective agreements covering wages and working conditions for tendermen and shoreworkers, and fish prices and share agreements for fishers engaged in a variety of fisheries. We negotiate in the north with the four major companies: B.C. Packers; Canadian Fishing Company; Ocean Fisheries; and J.S. McMillan Fisheries. These companies, combined, process 75 per cent of the salmon and 80 per cent of the roe herring caught on the B.C. coast." Ms. Thorkelson confirms for the commissioners that wages, working conditions, and fish prices are not the union's only concerns. They are a socially conscious union and get involved in political issues as well, among them land claims.

As Ms. Thorkelsen describes, the resolution of land claims and the recognition of the rights of Indigenous peoples within the province of British Columbia have consequences for the user groups of the fish resources. Traditionally in British Columbia there have been three such groups, according to Ms. Thorkelson, the commercial fishery, sport fishery, and the Indigenous food fishery. A fourth user was proposed in 1992 with policy that was called the 'Aboriginal Fisheries Strategy' (AFS). This fourth user is an

Indigenous commercial fishery, managed and harvested by Indigenous peoples throughout British Columbia. As Ms. Thorkelson explains, “Traditional commercial fishers are understandably concerned with this development, because another allocation reduces the available fish to be caught by the present commercial fishers.” She continues, stating that

Workers in the commercial fishing industry are concerned with the reallocation of fish to band and tribal councils both through the negotiations of claims settlements and the Aboriginal Fisheries Strategy. These occurrences are bringing disharmony and fear to the industry. Workers are concerned about their jobs. Most of the north coast industry workers are First Nations people, and they share the worry of an uncertain economic future.

Ms. Thorkelson’s testimony undulates like a wave between condemning the AFS and reinforcing how UFAW has stood up for its members in the face of these overwhelming structural forces. Remaining in her sights, Ms. Thorkelson continues to criticize the AFS, noting that the strategy

... was first instituted in the summer of 1992 and the results were predictable. Due to many reasons, the major being the lack of enforcement, this new commercial fishery went out of control. Spawning stocks on the Skeena and Fraser were in some cases fished to the point of danger; no one really knows how much fish was taken and where it was sold. Although the AFS was supposed to be a communal band or tribal council fishery, in some cases individuals took advantage of the confusion and lack of enforcement and poached fish. Up river that meant catching and selling fish for individual profit. In the salt water, it meant that some fishermen caught fish during the commercial closed periods and sold it to the companies as legitimate commercially caught fish.

Ms. Thorkelson claims the commercial fishermen she represented believed that third party consultations on the AFS were non-existent. She cites the Nisga’a land claims negotiations as an example of third party consultations that are agreeable to UFAW. At the conclusion of her testimony, Commissioner Wilson asks Ms. Thorkelson to clarify the



“Industrial” model toward the fishery that should be adopted in future negotiations among the users of the resource. According to Ms. Thorkelson, the ‘Industrial Model’ is one in which “ ... band councils and tribal council's peoples who are involved in this claims settlement should be guaranteed a space in the industry. They should become more involved in the industry. There have been a number of suggestions such as allocations of licenses to bands. There have been suggestions of ensuring that there is enough shoreworker participation. There have been suggestions of royalties being paid to bands for the use of fish.” In other words it is a model that calls for increasing the share of the existing industry instead of carving out an additional commercial fishery unto itself, or “ ... alienating fish from the commercial fishery,” which Ms. Thorkelson calls, “ ... a really complicated process.” This is, in fact, how she distinguishes the two solutions for the issue of resource management moving forward. In Ms. Thorkelson’s eyes, she concludes that “ ... it would appear to be two models, one of which is the industrial solution and the other of which is what I call an alienation solution which is alienating fish from the commercial industry to be targeted on by a band fishery or a tribal council fishery in a tribal council or band council area.”

## **XXII. Dennis Brown, United Fishermen and Allied Workers Union**

The alienation of fish solution was also heavily criticized in a follow up presentation to Mr. Thorkelson’s by another representative of UFAW, Dennis Brown, about half a year later during the third round of testimonies collected by the commission. This time Dennis Brown gave testimony to the effect that this is not an issue of race. Instead, according to Mr. Brown, “ ... the issue is not so much one of ill around race as much as a dilemma that

we are faced with in terms of a government policy which is attempting I believe to create two commercial fisheries out here on the West Coast when it is not necessarily clear as to whether or not we need to have two commercial fisheries.” Like Ms. Thorkelson, he continues on the theme of Indigenous participation in the union, providing some interesting insight into the structure of the fishing industry in British Columbia. Where Ms. Thorkelson cited a workforce comprised of 75 to 80 percent Indigenous peoples in her testimony, according to Mr. Brown that number is closer to one third and the number of total members represented by UFAW is seven thousand in his testimony, as opposed to the twenty two hundred quoted by Ms. Thorkelson. Whatever the numbers actually are, Mr. Brown tells the commissioners that Indigenous participation in the fishing industry on the west coast is greater than the three per cent figure frequently quoted by critics who say that there is not enough involvement of Indigenous peoples in the fishing industry off of the west coast of Canada.

He sets his sights next on the AFS saying that UFAW has problems with it and the way in which the government ‘concocted it,’ in his words. Mr. Brown makes it clear that the organization has no problems with ‘Aboriginal’ peoples, just the way the government created the policy. One important part in its creation was played by the Supreme Court, namely the Sparrow decision. Mr. Brown asserts that while UFAW does not have a problem with the Sparrow ruling in general as he believes it lays out some important principles in respect to Canada’s fiduciary duty to Inuit, Innu, Indigenous, and Métis peoples and nations, UFAW does disagree with those who interpret it as granting the right

to a commercial fishery separate from the existing regime governing the industry. In his words,

What has been troublesome to us, however, is an interpretation that isn't in Sparrow as far as we can see it, that there is a right to commercialize the Native fishery, somewhat outside of the existing commercial fishing licensing regime which we know. The Sparrow case did not say that. There is yet to be a definitive statement by the courts in this country on what the commercialization rights are. Who knows what that will be?

UFAW was angry that they had not been consulted on the AFS and they disagreed with the Canadian government's position on two policy planks covered in the agreement; namely, the existence of an Indigenous-controlled commercial fishery and some sort of co-management regime. Mr. Brown claims the haphazard implementation of the AFS threatened the health of the fish stocks on the Fraser River. The AFS is also concerning to UFAW because of the threat it poses to the licensing system that governs the province's fishing industry. Mr. Brown explains why this license system is necessary. As he explains it, "Number one, it wasn't good for the resource to have a completely open-ended fishery. Secondly, it wasn't good for people's income because you had the moonlighter scenario or whatever. Whenever there was a good year, a lot of people would come in and cream the top of the industry. In the poor years the bona fide people would be left to the dregs. So a commercial licensing regime was introduced for the benefit of the stocks more than anything else." He laments the lack of Indigenous participation in the industry, claiming the proper funding to make it happen was never provided, but denies the idea that the licensing regime was 'racially inspired' or 'some kind of apartheid type of approach.' Mr. Brown once again makes the plea to take the issue of race out of the equation: "And I think if we could take the issue of race out of it for a moment and just look at it from a

resource perspective, it has to be one that we have to wrestle with. There has to be some criteria or some control over how many permits or how many fishing operations can exist on the coast and still be in harmony with the stocks.” He points out that both the ‘non-Native’ and ‘Native’ peoples are worried about where the government is headed with the AFS.

Mr. Brown approaches the end of his testimony reiterating the level of cooperation with Indigenous peoples in the past, citing several projects where alliances with settlers have been undertaken before returning to his main point, the existence of a second commercial fishery. As Mr. Brown highlights once more, “On the harvesting end, however, we have some difficulty with the idea that you have to carve out a new commercial fishery in order to satisfy a clear need which we support for further need of economic opportunities here. I want to say first of all unequivocally there isn't a single voice in the industry that I have been able to find which in any way challenges the traditional fishery which is constitutionally guaranteed to fish in the traditional areas for food.” In fact before the advent of the AFS, Mr. Brown believes the harvesting end of things was, in his words, effectively ‘colour blind.’ According to Mr. Brown, “People didn't look at another boat and say "That's an Indian boat over there," or "That's a Japanese-Canadian boat," or "That's a Vietnamese-Canadian boat." People got along fairly well in this industry; not perfectly I must admit.”

Commissioner Erasmus is the first to ask Mr. Brown a question, querying him about his stance, confirming that UFAW does not agree with the need for a second commercial fishing industry, just expansion of the existing commercial system. Commissioner

Erasmus asks Mr. Brown how much a current license is going for to which he replies one million dollars. Mr. Brown attributes the exorbitant cost of the licenses to what he referred to as the ‘Davis Plan,’ the licensing arrangement which awarded the license to the individual rather than the boat, what the government called the ‘entrepreneurial’ or ‘corporate’ model. Government officials claimed, according to Mr. Brown, that this would allow the fishers to build equity in their businesses over time. In Mr. Brown’s eyes this model allowed for the ever-expanding accumulation of capital that produced larger operations capable of harvesting greater amounts of the resource for profit. Despite the structural consequence of the licensing system, Mr. Brown still supports it and believes existing licenses can be purchased from newly-retired fishers “... without too excessive a speculative pressure put on the resource.” But the idea of an open-ended, Indigenous commercial fishery does not sit well with Mr. Brown, because, “Well, I think you can’t have an open-ended fishery because the past has proven and many, many economic studies and others have come out with it. It’s that if you leave it wide open what happens is of course pressure on a common property resource gets to the point where it can’t bear it. And clearly we can’t go into that.” Even though this ‘common property’ is actually territory with specific instructions and responsibilities bestowed upon the Indigenous peoples in the province by the Creator, Indigenous peoples could expand their participation in the harvesting of what are in truth their own resources by undertaking salmon enhancement operations, if only the governments were willing to fund this experimental production technique, according to Mr. Brown. Instead the governments are pressing on with what he calls ‘their overall agenda’ via the AFS to open up British

Columbia's rivers to hydroelectric development like they have done throughout the United States. In response, Mr. Brown believes " ... that we've got to get back to a vision which says the fish come first, employment opportunities come first, and not allow the fact that we are going to fight over a few fish here under the AFS to divide us, but find some way to bring back some consensus and whatnot and work together."

Commissioner Robinson begins the line of questioning by noting the economic benefits that would accrue to Indigenous peoples from the implementation of the AFS, explaining that an Indigenous commercial interest would require the training of enforcement officers and the development of a regulatory regime controlled by Indigenous peoples and their governance systems. Mr. Brown disagrees as he believes the difficult terrain of the Fraser River canyon no matter "whether it's Native people or what colour of people it is" would make the monitoring of a commercial fishery there almost impossible. This inability to monitor the canyon has created a strain on the fish resource there in the past. This context is much different than the salt water, or open ocean commercial fishing context, because boats are easier to monitor when they are on the open water. Mr. Brown, while not mandated to say the following, personally sees the potential for a second commercial fishery on the Fraser under the right circumstances. But as Mr. Brown sees it,

... that's not what's being said here. What's being said is we are going to create a new licensing regime. We don't know who is going to get those privileges. We are not allowed to be involved in the negotiations. All going to be at the discretion of the minister. There has been no criteria for who will get them and there has been no vision of where we are going to end up. So far as we know it could just be a completely open-ended thing.

On that note, Mr. Brown concludes his testimony by requesting once again that UFAW be involved in future negotiations surrounding the AFS or any other fishing agreement.

### **XXIII. John Jamieson, Prince Edward Island Fishermen's Association**

This debate over a second, Indigenous-controlled fishery factored significantly within a cultural story told by a settler Canadian on the east coast of the country as well. John Jamieson from the Prince Edward Island Fishermen's Association (PEIFA) provides his association's perspective on the matter. The PEIFA is a province-wide association founded in 1952 that represents every fisherman on the island, although he doesn't give the exact number of fishers. This association does not have a problem with certain rights protected by the Sparrow Supreme Court decision on Indigenous peoples' rights to the fishery and in fact PEIFA does not disagree with the recognition of these rights, but they do not believe that "... open access to a food fishery is in the best interests of the fishing community." He cites an example of the Lennox Island Mi'kmaw band council signing an agreement with the Department of Fisheries and Oceans in 1991 that regulated their participation in the PEI food fishery. This is the sort of agreement Mr. Jamieson and his organization can live with. According to Mr. Jamieson,

We believe that, while the natives have certain rights to a good fishery, every effort must be made to ensure that conservation measures are in place and enforced. We do not see these agreements as an attempt to degrade the rights of the natives or to limit their participation in the food fishery, but as an attempt to ensure every effort is made to protect the fish stocks. We all live in a modern society that requires rules and regulations for almost everything we do and a native food fishery must be regulated to some degree by the DFO, which is responsible to conserve and protect the fish stocks.

Mr. Jamieson proceeds to then detail the extensive history of PEIFA's involvement in the conservation of the resource in Prince Edward Island, measures which have protected

PEI's fishery from the plant closures and industry shut downs affecting other parts of the Maritimes at this point in history. Mr. Jamieson details exactly how the PEIFA believes 'natives' in Mr. Jamieson's words should enter the fishery in PEI's waters. Mr. Jamieson sees the solution in government programs that facilitate the purchase of existing, non-utilized fishing licenses by Mi'kmaw fishers in the region. According to Mr. Jamieson, "Simply adding to the number of fishing operations will not do the natives or the current fishermen any good. There is a certain level that the resource can be fished and allowing natives to increase fishing effort will not allow them the economic viability they desire." Mr. Jamieson concludes his presentation by reiterating that he does not, in his words, see 'native' involvement in the fishery as a major threat so long as there are plans in place to protect the fish.

Commissioner Bertha Wilson is slightly confused by the PEIFA's position and asks Mr. Jamieson to clarify, which he does. In his words,

I think there was some talk last year when they arranged the food fishery in Prince Edward Island that the natives would set their own rules and decide what was proper in the fishery and that DFO and other people had no right to talk about conservation. I think it's our position that there is a level of knowledge with DFO and there is a mandate there for them to preserve and conserve the stock. We recognize, while the natives have rights, there also has to be some form of rules and regulations put in place so that they don't abuse what stocks are in place. And, as I said during my presentation, this isn't anything directed towards the natives. If it was non-natives who were entering the food fishery we would be asking that some kind of regulations be put in place so that conservation is upheld.

Commissioner Wilson makes the point that she believes that such a notion is silly considering how vital conservation is to Indigenous peoples in the region such as the Mi'kmaw. Mr. Jamieson does not disagree but he replies that times have changed and now the involvement of commercial fishermen has necessitated a change in resource



regulation. Mr. Jamieson reiterates that the priorities of his association are with the conservation of the fish stock. Such priorities must be the main concern in any future agreements, for according to Mr. Jamieson, “In our idea of some form of agreement, we're not saying that the natives don't have a priority. What we're saying is that conservation even has a priority over the native involvement.” Commissioner Wilson reiterates the fact once more that Indigenous peoples are the original conservationists of Turtle Island and asks Mr. Jamieson if he agrees, which he does, but in his reply he suggests “That may have worked when you were in a hunting and gathering society. I'm not sure if that type of simply leaving it open is going to work today. It may.” According to Mr. Jamieson, the PEIFA discussed the historical injustices experienced by Indigenous fishers and recognize the ongoing injustice, although he asks the commissioners, “ ... do you fix a wrong by impinging on the rights of another group of people? I think if we can work out ways that allows the natives to pursue a fishery, both commercial and food, through some of the things that we're talking about I think we'll see a better cooperation between everyone.”

Commissioner Erasmus then challenges Mr. Jamieson's interpretation of the 'open' fishery he is worried might develop in the wake of more Indigenous co-management in the commercial fishery. As Commissioner Erasmus says,

I think if you have access to aboriginal culture, whether it's here or anywhere else in North America, you'll find that your concept of an open society was not quite as free of rules and regulations and laws as to how to live with each other as human beings and with everything else alive. Most aboriginal societies looked at everything else as being more important than the humans and that it was not, as far as I know, in any of the aboriginal societies suggested to anyone that they could go out and slaughter any resource at all.

Mr. Jamieson does not disagree, saying that “Well, rules and mores don't have to be written down for people to follow them. But I think we recognize that. I don't believe it was as open as I may sound. I know that in any society there are a number of things that people have to follow that aren't necessarily written or that aren't laws or regulations or rules. This is especially true in earlier societies.” Here he seems to be awkwardly defending the legitimacy of orally transmitted regulations and rules that are supposedly prevalent in ‘earlier societies.’ Eventually, after Commissioner Robinson reminds him again about how important conservation is to the Mi'kmaw nation's way of life, Mr. Jamieson concedes that the fishers, working in coordination with the Mi'kmaw fishers, could probably teach the Department of Fisheries and Oceans a thing or two about how to regulate a sustainable fishery. This is why Mr. Jamieson decided to present to the commissioners today, to clear up what he felt was a misconception in the eyes of the island's Mi'kmaw fishers that the island's Canadian commercial fishers did not want to see their involvement in the fishery.

Commissioner Erasmus continues to press Mr. Jamieson on his organization's views about Mi'kmaw participation in the food fishery. He is not suggesting that to exercise this right a Mi'kmaw person requires a license. They do not and that is not in dispute as far as Mr. Jamieson sees things. What he is arguing, however, is that some sort of conservation regulation must be maintained over and above this right. Again he returns to the argument about the rules devised in hunting and gathering societies and again he does not seem to make much sense. In his words, Mr. Jamieson suggests that “We're just saying that while the mores and rules of a hunting and gathering society may have worked at one time

we're not so sure that leaving it open to a person's discretion is workable now and whether that's a native or a non-native.” Mr. Jamieson concludes his presentation by returning to this notion that two wrongs do not make a right. As he says, “Also going back to what I said earlier, we also wouldn't say that it would be proper to simply allow natives to enter the commercial fishery and then take some non-natives out of it as a move by the government because two wrongs don't make a right.” John Joe Sark, who must have been either in the audience that day, or perhaps was acting as the unidentified Commissioner of the Day, rebutted this remark, stating to conclude this round of testimony that the Mi'kmaw fishers were, according to Mr. Sark,

... concerned about conservation and we are also concerned about the amount of poaching that goes on by the non-Mi'kmaw people. There is more poaching going on than our people would ever fish. I think that, you know, unless you decide to sit down with us and talk to us about it, we have our rights and those rights don't allow us to abuse the resource. But we have been shut out of that resource for so long that everyone thinks that we shouldn't even get into it now. But, you know, I think there's a lot of things that have to be clarified and I think there is a lot of half-truths out there in regards to our people and they multiply in times when the recession is tough like it is now. Everybody thinks that the Mi'kmaw people are out to get something for nothing. They don't realize how much we've lost. Thank you.”

#### **XXIV. Bob McKamey and Phil Eidsvik, BC Fisheries Survival Coalition**

A round three testimony from British Columbia Fisheries Survival Coalition (BCFSC) representatives, Bob McKamey and Phil Eidsvik, speaks to the different ways race becomes apparent in stories about the land which Indigenous peoples and settlers tell themselves. Their testimony begins with the moderator, Mr. Louis Desmarais, asking the two representatives of the B.C. Fisheries Coalition to set up whatever it is they brought with them on a flipchart stand so that the audience and commissioners can see what they had to display. After they do, Mr. McKamey speaks first and he suggests that the two will

present a bit of history about the coalition they are representing. He proceeds to inform the commissioners that he will talk about the BCFSC but first he asserts that the Survival Coalition is not racist and asks if his colleague, Phil, wants to add to this discussion. Phil, however, does not have the chance because before he can say anything Mr. McKamey launches into the coalition's platform. As Mr. McKamey says, "As a commercial fisherman, I don't – the Survival Coalition doesn't believe there is a need for two commercial fisheries on the west coast. We believe there's room in the existing fishery to expand it to include anybody who wants to participate in the fishery. There's an established way of managing that fishery that seems to be relatively successful up till now."

Mr. McKamey proceeds to further clarify what problems the coalition would have with an Indigenous-controlled fishery. In his words he says,

We don't believe that the right way to increase Native participation in the fishing is to create a new commercial fishery. We have – from day one we have said we had no problem with the Sparrow decision that said there was a right that come after conservation for a Native food, social and ceremonial fishery. There was never – that fishery has been going for as long as I can remember. And there was never a problem. We feel that the commercialization of that fishery has some very inherent risks involved in it that put the fishery at risk and consequently, you know, it puts our industry at risk and puts me at risk personally. That's why I got involved in this because I didn't believe it was the right way to go. We believe the Native people have always – they've had the same right to participate in that fishery that we all have.

Mr. McKamey goes on to praise the success of these programs and suggests once more that Indigenous people harvesting for food, social, or ceremonial purposes is fine, but that a co-existing, commercial fishery was not in the eyes of the coalition members he represented.

Mr. McKamey points out this decision has nothing to do with the fact the fishers in question are Indigenous peoples. In his words again, “We don’t - I don’t support and the Survival Coalition doesn’t support the whole idea of the co-management concept. Not because it’s the Natives that are involved. If the government come to me and told me that the trollers were going to manage the fishery from now on, I would have exactly the same objections to it.” He reiterates that the problem is fishers managing the resource, not Indigenous fishers in particular, just fishers in general. As Mr. McKamey puts it,

I don’t believe the fishermen have the ability to enforce and to manage and to make sure that everything is done properly within the fishery. I think fishermen have to have this, by virtue of the fact that they’re fishermen, have to have an outside independent organization that watches all of us and make sure that we all fish within whatever rules and guidelines have been established. I think the co-management program, an indication of some of the problems we had on the Fraser [River] and some of the problems we had in Alberni, some of the problems we had at other places on the coast, I think were a reflection of the problems that existed within the co-management program. And it’s got nothing to do with me saying that Natives can’t enforce a fishery. I don’t have a problem with that. I do have a problem with fishermen enforcing the fishery.

The story he tells himself, then, is that no fishers, regardless of their background, should manage the resource because they will not be able to do it objectively. Mr. McKamey goes on to say that the pressure placed on the fishery by the right of sale Indigenous fishers were entitled to commercially affected the ability of the fish to reach their spawning grounds. To conclude his testimony, Mr. McKamey repeats his main themes. As he says, “But I, at this point in time, I think I can speak on behalf of the Survival Coalition when we say those points about we’re not racist, we don’t think there’s a need for two commercial fisheries and the co-management concept we don’t believe is fundamentally going to work because of the fact that people – fishermen should be

enforcing against fishermen.” Moderator Lou Desmarais interjects and asks the duo if Phil would like a chance to testify. Phil responds that he would indeed like to add to what Mr. McKamey was saying.

Mr. Eidsvik begins his testimony by noting that there is already significant involvement in the commercial fishery in British Columbia by Indigenous peoples; 30 percent according to Mr. Eidsvik’s estimate, a number people often forget about he suggests. He proceeds to summarize the economic take for Indigenous fishers in 1990, noting that “Aboriginal people are very successful in the commercial fishery. They are very good fishermen.” Mr. Eidsvik then turns to the use of the prop the gentlemen brought with them to their testimony that day. It is a map of the Stó:lō region and it lays out where the various nations and settler communities are situated along the river system that winds through the territories. Mr. Eidsvik notes that the lack of conservation of the resource threatens many upriver communities that also depend on the resource, Indigenous and non-Indigenous alike. Not only the upriver communities, but considering how the resource runs extensively up and down the Pacific coast, it is clear many communities throughout the province depend on it. For this reason, the resource requires an independent manager, according to Eidsvik. As he suggests,

And this is one of the reasons why we talk about the co-management problem. We say it needs an independent manager because there are so many different people that rely on it. Just on the Fraser there is 97 bands and the – one group of bands trying to manage it in each region we think leads to splintering management authority to such an extent that it becomes unworkable. We think you need one manager to stand over the whole thing. You say this is how the fish is going to run. This is when you open fishery. This is when you close. Because we see so many people involved in the decision making process, decisions bog down and you can’t make them anymore. That’s about all that I wanted to add.

Commissioner Erasmus follows up by asking Mr. McKamey what he would like to see moving forward, should Indigenous and non-Indigenous fishers eventually sit down and talk. Mr. McKamey replies by suggesting a bit of honesty as everyone involved in the contentious issue is posturing in advance of the negotiations they suspect are forthcoming over treaties. Mr. Erasmus asks McKamey if he means that this posturing is happening on both sides, a point to which McKamey is not willing to concede. He is willing to concede yet again, however, that there is no need to revisit the 1992 fish count controversy. Instead efforts should be placed at resolving the issues in 1993. As Mr. McKamey asserts, “Because the road it’s going down is – a solution does not lie at the end of it. All that lies at the end of it is more of the same thing, only on a much greater level I suspect.” Commissioner Erasmus responds by asking if Mr. McKamey heard the earlier speaker, “Did you hear some of the comments about how they might be prepared to do some extra counting and designated landings. What were you thinking when you heard that, if you did hear it? I’m not sure you were in the room.” Mr. McKamey arrived late and did not hear the comments in their entirety, but what he did hear, he did not agree with. As he says,

But, my opinion, is that it won’t work. The geography of that fishery where it takes places, the mechanics of it, just the way the fishery is conducted, just do not lend itself to being regulated. I don’t think it does anyway. That’s my opinion coming from that – growing up in that part of the river. I think that the fishery – in my mind you’d almost have to put a DFO guy on every point and every sandbar and every bank to try and regulate that fishery. If I’m entitled to my opinion, my opinion is that that fishery – a commercial fishery above the bridge will not work, cannot be regulated and cannot be controlled. And I believe 1991 is an indication of that.

Mr. Eidsvik interjects and asks if he can add to McKamey’s point, to which

Commissioner Erasmus agrees. Concluding their testimony, Mr. Eidsvik states that he is

worried the government is conflating two different sets of rights. He believes the Sparrow Supreme Court decision called for constitutional protection for the Indigenous right to fish for food, social, and ceremonial purposes, not for the constitutional protection of a separate, Indigenous-managed and run commercial fishery. This was the major stumbling block to the negotiations on this issue, this inconsistency of how the constitution was similarly applied to different productive activities, or as the BCFSC representatives see it, “There is no constitutional or Aboriginal right to a commercial fishery.” Commissioner Erasmus disagrees with the suggestion given there is a desire for Indigenous fishers to manage the resource themselves according to their own regulatory system, a stumbling block he wonders how they’ll get around. Mr. Eidsvik has a solution, “By providing economic benefits through the existing commercial fishery where there’s a long – 125 years of regulatory and monitoring enforcement procedures already established.” This answer seemingly ignores the question posed by Commissioner Erasmus and the entire, diverse body of ecological knowledge of the Indigenous nations on the continent (Varese 2001), but it demonstrates the crux of the matter quite clearly. According to Mr. Eidsvik, “... we say we’re opposed to create a separate fishery because there is only room for one commercial fishery. And that seems to be where we’re separating. On all the Sparrow stuff, I mean, we’re all together on that. But it’s because we’ve tried to mix these things together and that’s where all the controversy is today.” Finally, Mr. McKamey says, “I think we have to keep our eye on the issue here. The issue is fish. It’s not Natives and non-Natives.”



**XXV. Dick Martin, Guy Adam, Canadian Labour Congress**

Representatives from the Canadian Labour Congress (CLC) testified about the effects the resolution of land claims would have on the interests of their members, demonstrating some of the stories previous union representatives have told about their members' feelings towards land claims. Dick Martin, the CLC's secretary treasurer, and Guy Adam, the National Coordinator of Women's and Human Rights talked about the role of Indigenous peoples in the labour movement and the complications resolving land claims presents for the workers the CLC represents. Those workers numbered some 2.4 million men and women or approximately 60% of the total membership of the Canadian labour movement at the time. According to Mr. Martin the union has supported Indigenous peoples and their struggles since "... they first began to appear on the national agenda a quarter century ago. We wish to begin by reiterating the labour movement's support for the inherent right of Canada's Aboriginal peoples to self-determination including the right of self-government and jurisdiction over lands and resources." As his testimony unfolds, it becomes clear this support is conditional.

Mr. Martin foreshadows the nature of CLC's conditional support for inherent and treaty rights when he describes the results of a report conducted with the CLC's membership which asked its members how "Aboriginal rights can be accommodated rather than whether they should occur at all." The short story he tells is that they can be accommodated to the extent that they do not affect the security of the workers the CLC represents. If they do, such rights will not be supported, hence inherent and treaty rights are not equal to workers rights. The added complication in this story that the CLC does

not address during their representatives' testimony is the perspective of the Indigenous, Inuit, Innu, and Métis workers within the CLC on issues such as land claims. In 1993, Mr. Martin estimated that there were “ ... at least 40,000 Aboriginal members of trade unions in Canada of whom 25,000 belong to unions affiliated to the CLC.” Statistically speaking, in terms of employment equity, according to Mr. Martin, “ ... apart from the B.C. fisheries and some areas of public sector employment, Aboriginal workers are barely represented in unionized workplaces across the country. Even in cities where the Aboriginal population is 10 to 15 per cent of the total population, the proportion of Aboriginal workers in organized bargaining units is only 1 to 2 per cent.”

The abysmal representation of Métis, Inuit, Innu and Indigenous peoples in unions may have something to do with, according to Mr. Martin, the feelings of exclusion and the lack of sympathy Indigenous peoples have historically received from unions. Or it may have something to do with the seemingly immutable position of unions as embodied by the CLC's perspective. Mr. Martin clarifies this perspective, “On the one hand, we in the labour movement are strongly committed to seeing Aboriginal rights recognized and social justice achieved for Aboriginal people. On the other, one of the primary objectives of unions is to protect and to advance the interests of working people in general and their own members in particular.” Failure to do so threatens everything in the eyes of Mr. Martin. For as he says, “If unions don't act on behalf of members whose livelihood is affected by the implementation of Aboriginal rights, the general support of its members, both for their union and for Aboriginal rights, would surely be in peril.” After making a series of recommendations on how the labour movement can be more inclusive, Mr.

Martin suggests the CLC should be at future negotiating tables anywhere in Canada when it comes to land claims. That said, Mr. Martin believes any costs associated with redressing historical rights should be shared equally, and not covered solely by the labour movement.

Commissioner Bertha Wilson is the first to respond to Mr. Martin's comments. She explains that

So built in to the Congress is a kind of an internal conflict. Why I was so interested in that and the implications of it which you set out very clearly in your brief is that it is exactly the same situation in Canadian society generally because, to the extent that the cause and the rights of Aboriginal peoples are promoted and realized, there is going to be a corresponding diminishment in their eyes of the position and the rights of non-Aboriginal peoples.

The essence of the conflict that the CLC perpetually faces, as is so eloquently explained by Commissioner Wilson, is that the CLC can only go so far in its support for Métis, Indigenous, Inuit, and Innu peoples - to the point where it does not infringe upon the CLC's responsibility to protect the rights of its members. Commissioner Wilson then puts the question to the CLC's representatives, after noting the CLC equated their members' potential losses due to the resolution of land claims with the loss of property rights. She wonders, what exactly do you think it is your losing because, according to her, Indigenous, Inuit, Innu, and Métis peoples may suggest in response that all the unions are losing is the privilege of not having any competition in the labour market, privilege protected by racism, discrimination, and economic marginalization. As the commissioner says, "It raises this issue as to whether it is correct to say that non-Aboriginal workers are losing their rights, their losing something for which they should be compensated."

Commissioner Wilson does not believe this to be the case.

Mr. Martin responds first by suggesting that the abysmal hiring rates of Indigenous peoples is not the union's fault, even though "... when we talk about some of the hostility that is spoken of by some Native leaders, they seem to think that we are the persons ... that excluded them from the jobs. In 9 out of 10 cases, that just isn't so." This still leaves 1/10<sup>th</sup> of an opportunity for unions to practice discrimination and economic marginalization. He attempts to build on this answer by citing reverse discrimination, although Mr. Martin does not use that term. Instead, he says, "Now, with saying all of that – and we think that is the only way it is going to work – better communications into better intermingling in terms of just talking to each other as people. But at the same point, if people are going to have their rights – I am not saying that discriminated against, but the injustice of the past can't be solved by putting injustices onto some people at the present," a familiar refrain uttered by the representatives from the Prince Edward Island Fisheries Association and the British Columbia Federation of Agriculture, as well. Mr. Martin remains adamant that there will still be a negative effect experienced by non-Indigenous workers, for as he notes,

In many cases, as we know, the people in northern communities or other communities have been there their whole lives. I am talking about the white people that are in the unions and in employment. We recognize, though, that if you are going to make any headway, there has to be strong mandatory, affirmative action type of programs to bring Aboriginal people into the workforce and to promote them. In some cases, that is going to result in a loss of jobs.

He finishes his response by suggesting that the CLC does not see much difference between someone losing their property and someone losing their job.

Commissioner Wilson is still not convinced, questioning whether this is actually the case, whether someone would directly lose their job as a result of an affirmative action

hire. She returns to her argument from earlier, “... as I said, I think the Native person’s argument would be, ‘You have really had it good because we weren’t in there competing with you for that job. We are now, but that is only just and fair.’” Mr. Martin is not convinced either and continues to maintain a situation may arise when compensation is necessary, but he is willing to concede that the situation will have to be closely examined. For as he states, “You simply can’t say, ‘Because an Aboriginal got promoted above me, I now have a compensation case here.’ That is just not so. You would still have to make your case,” he concludes.

For the first time in the testimony Mr. Adam makes a comment, after being prompted by Mr. Martin. Mr. Adam states that perhaps the comparison the CLC makes to property rights is a bit strong, especially in consideration of the rights related to land claims, and he notes Commissioner Wilson’s point is well taken. She follows up his response, reiterating her previous point that “This is a concern of non-Aboriginal people generally. If all of this comes to pass for Aboriginal people, how is it going to affect me? This is what, I guess, most people come down to in the end.” Mr. Martin concedes this is an accurate statement and returns to the comparison between losing a job and property, “It doesn’t bother me too much, quite frankly, if some bank property is going to be gained by the Aboriginal people, but it bothers me a lot if it is my house.” The testimony proceeds with a discussion about the necessity of training Indigenous, Métis, Inuit, and Innu peoples, the part the CLC is playing in providing this training capacity in the British Columbia context, and the role more generally played by organizations such as CLC in providing this training. Finally, the testimony concludes with a discussion about the need

for the labour movement to work with Indigenous, Inuit, Innu, and Métis communities in the future as a way to share knowledge and support each other in their mutual struggles to resist colonialism, racism, and sexism.

#### **XXVI. Sandy Baumgartner, Canadian Wildlife Federation**

The issue of control and restrictions placed on lands by Canadian authorities and their governments and the equality of all individuals underneath such authorities is discussed by the Canadian Wildlife Federation (CWF). The CWF, however, takes a more restrictive approach to the use of nature. Sandy Baumgartner, the communications manager for CWF, starts their first round of testimony (the second coming in Ottawa, ON six months later) by providing some information about the work of the CWF. According to Ms. Baumgartner, the CWF is the “... largest non-profit, non-government, conservation organization in the country. We represent approximately 600,000 members and supporters.” The main goal of the organization is to ensure the sensible use of Canada’s lands and resources. They undertake advocacy, education, and research in service of this goal.

According to Ms. Baumgartner, the CWF “... recognizes that in many areas of the country use of wildlife is crucial to the existence of Aboriginal people.” Recognizing this they believe the allocation of resources should be prioritized so that the most important uses are ‘Aboriginal people’s subsistence use,’ the second is non-Aboriginal people’s subsistence use, then recreational users and finally commercial users. Ms. Baumgartner then proceeds to discuss the efforts of the CFW to build bridges between “Native and non-Native interests.” One of their proudest achievements was being a signatory to a

landmark agreement between the Federation of Saskatchewan Indian Nations, and the provincial and federal governments.

She concludes her testimony by stating that

In closing I would just like to point out that the Canadian Wildlife Federation does recognize Aboriginal rights. We do acknowledge that under the Constitution and legally Aboriginal people have certain rights. However, I must remind you that wildlife knows no boundaries and wildlife knows no jurisdiction. No one owns wildlife. It is up to all Canadians, Aboriginal and non-Aboriginal, to work together and to ensure healthy and abundant wildlife populations for the future of all Canadians.

Commissioner Dussault is the first to respond and he asks Ms. Baumgartner about whether or not CWF agrees with the belief “... that in remote areas and in other areas where, by tradition, Aboriginal people have been harvesting for their food, shelter and subsistence, that you share the point of view that it’s part of their right to do that.” Ms. Baumgartner agrees that this is the position of CWF. Mr. Dussault then proceeds to ask Mr. Baumgartner about commercial users and the special circumstances their situation engenders to which she responds that there needs to be a co-management system in place to regulate the various commercial interests embedded in nature. Ms. Baumgartner clarifies the CFW’s position further. According to her, “Generally our position is that as long as an Aboriginal person is hunting and fishing on their treaty land we believe that they can do that all year long without regulation.” She continues,

And where there is other lands that are not covered by treaty we believe that all people, Aboriginal and non-Aboriginal, should be guided by the same regulations. So if there is a hunting season in a particular area that is not covered by a treaty we believe that all people should be treated equally and should follow the regulations in that area. Those areas are dwindling as it is, so the wildlife is dwindling and we feel strongly that those areas should be still regulated by the regulations of that particular region.

Commissioner Dussault responds by asking her about lands where there is no treaty area in the same sense as the numbered treaty areas in Western Canada. He is specifically referring to places in Eastern Canada where pre-Confederation treaties exist but are not enforced. Ms. Baumgartner is not sure what the CFW's position is in regards to these areas, a lack of knowledge that will become evident in her second testimony six months later.

Being from the region, Commissioner Robinson sheds some light on how things are done in Nova Scotia. As she says,

In Nova Scotia the pre-Confederation treaties recognize or guarantee hunting and fishing rights and gathering for Mi'kmaw people as a Nation. And of course we had to go through the courts to accomplish this. However in doing that, after that was done, we were still being prosecuted. They were still applying provincial laws to the hunting regulations. It's a strictly bi-lateral conservation agreement between the Province of Nova Scotia and the Mi'kmaw Nation, and that we regulate our own hunting – we made our hunting regulations – and we abide by them and we regulate our own people.

Commissioner Robinson describes how a local chapter of the Wildlife Federation in Nova Scotia opposed treaty rights because of conservation fears. Ms. Baumgartner responds by suggesting provincial affiliates of the CFW may pursue policies separate from the national organization, and “... that very much so our primary concern for the Canadian Wildlife Federation is conservation and you know that is our number one goal above all. Our main concern is for wildlife and so if that means nobody harvests a resource because it's threatened, we would feel strongly and we would push for that.” Mr. Dussault continues to seek clarification on the CFW's position. As he puts it, “In your paper you don't say, ‘Well, we recognize the special rights,’ and ‘It has to be co-managed,’ and ‘If the resource is available the quotas should be allocated to everybody.’ So you don't – I



just try to get right what you recognize and what you don't recognize. I think it's quite clear for when the purpose of harvesting the resource is for subsistence, on treaty land.” When it comes to commercial resource use in a treaty area, Mr. Dussault is not sure where the CFW stands.

Ms. Baumgartner seems to suggest that the CFW is okay with the commercial harvest of resources in treaty areas so long as it is done in a way that respects conservation. As she clarifies, “You know treaty lands or not we would still be concerned if a population was to an extinct level or to an endangered level,” and they would take that concern to the leadership of the treaty nation to express it. Furthermore the CFW does not agree with exclusive agreements between Indigenous nations and the government which do not include other interests because the CFW thinks “... that all groups should be involved in conservation issues and so all people that have concerns about resources should be consulted.”

In her second testimony six months later it becomes clear early on the CFW believes that while all groups should be consulted in the interests of conservation, only the Canadian government should retain control over managing the resource. The 30 year-old organization, as mentioned, is interested in promoting the wise use of the country's natural resources. Once again Ms. Baumgartner acknowledges that the CFW recognizes the legal and constitutional rights of ‘Aboriginal peoples’ but those rights are tempered by the fact that “... the Federation recommends the governments – federal, provincial, and territorial – must maintain authority over wildlife management.” Although she grants the setting of harvesting limits “... must be done in cooperation with all Canadians,

Aboriginal and non-Aboriginal, government and non-government.” Ms. Baumgartner then proceeds to conclude her second testimony by providing examples of places where the CFW has cooperated with other nations and organizations in pursuit of their goals.

Commissioner Meekison is the first commissioner to respond and questions Ms. Baumgartner about her earlier comment lifted from a section of the CFW report she submitted. As he reads it,

The Federation recommends that Canadian governments – federal, provincial or territorial – should maintain control over wildlife management in Canada. They must maintain the authority to regulate and restrict harvest and harvesting methods. Any splintering of this authority would be detrimental to the health of wildlife resources.

Commissioner Meekison wonders where in such a perspective one may find room for Indigenous self-determination or self-government. Ms. Baumgartner responds, that, “Sure. Some of the thoughts probably will be my own personal thoughts, because it isn’t addressed in our current policy. However, if this Commission were to recommend it and it were to become reality that there was native self-government, I think that we would be dealing with that government as we do with provincial, territorial, or federal governments. I think that we would still encourage, though, the co-operation amongst all those people.”

This is the grey area the CFW is not equipped to deal with in a policy sense, which is Mr. Dussault’s concern. Ms. Baumgartner seeks to clarify, touching on a conceptual struggle raised in her first testimony over inherent rights. Of the CFW she says,

I guess where we struggled with this was what exactly is traditional land. That’s why we’ve included ‘recognized as traditional lands.’ When a land claim is settled and the area is determined, you know, agreement has been reached that that will be a traditional land, yes, we believe that the Aboriginals have a right to manage that

land, but keeping in mind what I stated earlier, that wildlife knows no boundaries, we have to work together and somehow co-ordinate – we have to share the information between all the people.

As for the status of traditional land where land claims have not been settled, Ms. Baumgartner is not as certain about how to proceed. As she says, “I guess that’s where we will have a grey area and that’s why it is important, if the land claim hasn’t been settled – for example, the Algonquin claim – I think there is a strong need for this type of committee to work together as to have that wildlife – the negotiations will carry on and they can take many years, but we still have to manage that land and that wildlife.” In other words, suggests Mr. Dussault to conclude the testimony, in such a situation the CFW would like to be sitting at the negotiating table as part of some sort of co-management committee where everyone was an equal partner underneath the centralized authority of the Canadian government.

The stories narrated in this chapter represented a diverse range of interests throughout Canada, including for-profit and non-profit ones, landowners, fishers, farmers, workers and conservationists. Despite their varied backgrounds the stories share certain similarities. Perhaps none is more obvious than the fact that the morals derived from these stories are united by their shared foundation in liberalism and in particular one of the pillars of liberalism – equality of rights. As Brownlie (2009:309) clarifies, many of the morals to these stories demanded that races possess equal rights to land, waters, or resources such as fish in a way that sanctifies the opening up the country’s resources to development regardless of whether or not such demands threaten the inherent or treaty rights of Indigenous peoples. The logic of equality was used in other narratives to suggest

Indigenous producers such as fishers do not have an equal right to create an additional commercial industry alongside from the existing one embedded in settler Canada. In other words, Indigenous people who fish commercially should have the same rights as other fishers within the current system and not their own commercial fishery managed according to the diverse systems of resource laws and cultural beliefs that exist within the many Indigenous nations across the country. Without social relations based on equal rights for all producers settlers believed they would face uncertainty based on, in some instances, the threat to wildlife via increased harvesting pressures respecting inherent and treaty rights would entail. As such the inherent and treaty rights of Indigenous nations were not on equal footing with settler rights because inherent and treaty rights should be preempted by the concern for Mother Nature, settler economic well being, and the rights of some centralized authority to govern her domain. The analysis to follow in chapters six and seven explores how beliefs about land use in a liberal order function to erase the legitimacy of inherent and treaty rights by racializing the national identity of Indigenous nations (Brownlie 2009:315) using common sense understandings of race (Gotanda 2010) that overlook the fact inherent and treaty rights are based on responsibilities to the Creator, each other, and the land (Ladner 2001). I argue in the conclusion that this only maintains the settler colonial status quo.

## **Chapter 5 – An analysis of counter stories**

The stories narrated in this chapter are all derived from testimonies by Indigenous peoples from across Canada. These stories are referred to as counter stories in this study, as they are based on a combined critical race and tribal critical race theory conceptual understanding of such narratives. Such stories challenge the taken for granted (Delgado 1989:2415) or common sense understandings of the racialization of Indigenous national identities in cultural narratives by demonstrating how the land use of Indigenous peoples is not defined by ‘race’ but is instead defined by a wide range of understandings in terms of inherent and treaty rights to land, language, spirituality, and the Creator. These counter stories challenge settler narratives because they connect to the broader social relations of colonialism and in doing so ‘bear witness to’ (Bell 2003:8) or elucidate (Ingram 2013:5) the consequences of settler colonial relations and the settler identity in Canada. In doing so, they also function as blueprints for viable, alternative, anti-colonial ways of living, as I argue in the conclusion. The morals of these tales analyzed in this study is that we are trying to live our lives on the land in our way, according to our responsibilities to each other, the land, and to the Creator and we are consistently interfered with by settlers in terms of our ability to do so - with genocidal consequences. Counter stories bear witness in a powerful way to this interference because each one is a story ‘rooted in’ (Ewick et al. 1995:218-219) the broader social relations of settler Canada and as such each one is capable of illuminating the endemic liberal racialization so integral to the language of the settler Canadian landscape.

**XXVII. Treaty 4 - Chief Calvin McArthur (Pheasant Rump Nakota), Chief Wayne Goodwill (Standing Buffalo Dakota), Chief Ken Goodwill (White Cap Dakota), Dakota nation**

Chief McArthur begins the presentation by providing the commissioners with some local context. Located in the southeast corner of Saskatchewan, the Dakota peoples refer to themselves as the “Ihunaktua” and they are a part of the Seven Council Fires Confederacy. Chief McArthur notes that while people in the United States and Canada recently celebrated the 500<sup>th</sup> anniversary of Columbus, “I see that for the Indian people as celebrating 500 years of survival.” Noting that the Pheasant Rump Nakota peoples signed an adhesion to Treaty 4 in 1876, Chief McArthur reminds the commissioners that only nations can sign treaties, and then proceeds to inform the commissioners that he was given a nine month suspended sentence for standing up to defend his community against attacks on their treaty rights. In his words, the Chief says, “I believe my position as the Chief of the Band is that I must speak for the people who cannot speak for themselves.” As the story unfolds throughout the course of the Chiefs’ testimonies, it is clear the Dakota peoples did not receive a great deal of protection through the treaties they signed.

As the Chief describes, what actually happened was that between 1876 and 1901 members of the federal government repeatedly visited the reserve and forced the Pheasant Rump Nakotas to amalgamate with the peoples at White Bear, a mixed Cree and Salteaux community. From 1901 right up until 1990 the Pheasant Rump Nakotas were coerced from their reserve and denied their band status and the accompanying benefits. After starting a land claim in the 1970s and successfully realizing it in 1986, the Pheasant Rump Nakotas managed to organize and realize an Order-In-Council on August 23<sup>rd</sup>,

1990 that ensured they were once again recognized as a band in the lands that the Chief reminds the commissioners they have inhabited since the beginning of time. It is a special place, for as the Chief notes, these lands are the site of a medicine wheel and over 200 teepee rings, but in reality the Pheasant Rump Nakotas have a history of traveling throughout the region between Wood Mountain, Pheasant Rump, and down into Montana. To the Nakotas the American/Canadian border, or the 49<sup>th</sup> parallel, has been nothing but a headache, constantly working to divide the people. Chief McArthur recounts to the commissioners how a spiritual leader from South Dakota crossed the border earlier that day was treated disrespectfully at the crossing. This was an example of how, as the Chief says, “For many years the lives and the futures of our people have always been governed by the standards as set out by the government.”

Chief McArthur turns his attention toward the treaties stating to the commissioners that he believes the federal government claims they cannot afford to implement the treaties, but that doing so would mean “... Canada can move forward as a country. There will be no problems with separatism, racism, discrimination.” Particularly the kind of discrimination the Chief describes in which the Pheasant Rump Nakotas had mineral rights to their lands taken away. Even though these lands were returned to the people in 1990, the mineral rights were not. This has been disastrous, for as the Chief states, “Oil companies can come on and give us a couple grand a year to drill a well, make themselves rich, but not us. A lot of the First Nations are Third World countries living in a First World country. Land claims and treaty land entitlements should also include mineral rights.”

Chief McArthur concludes his testimony by returning to the border crossing issue once more, providing the commissioners with additional context that helps make sense of the unique position of his people. In his words, “Once again, with respect to border crossings, there are five bands of the Dakota, Nakota, and Lakota in Saskatchewan and there are some in Manitoba and some in Alberta and some in the States.” This context demonstrates the wide boundaries of the Dakota, Lakota, and Nakota nations’ territories. He recounts for the commissioners that prior to 1850 his ancestors traversed this territory up to the Saskatchewan River in order to follow the buffalo. When war came to the territories in the 1860s, this pattern of migration ceased. “However,” according to Chief Goodwill, “there are still landmarks, there are teepee circles, sacred burial sites and those are what we believe are ours and were left here in Saskatchewan.” Chief Goodwill tells the commissioners that the Standing Buffalo Dakota peoples were provided with a reserve in Standing Buffalo near Fort Qu’Appelle. According to Chief Goodwill the Wood Mountain Lakota band never received a reserve until 1934, but he notes that both land bases are relatively small. As Chief Goodwill states, “Wood Mountain is two miles by two miles, Standing Buffalo is three miles by three miles. We got a population of 800. Our on reserve population is close to 400 people.” Their small size is the result of the categorical control exercised by the federal government in Canada which considers the Standing Buffalo Dakota band as status Indigenous peoples and not treaty Ongehon:we peoples adhered to Treaty 4 in the same way as the Pheasant Rump band.

The testimony by the Chiefs was momentarily stopped when an eagle staff fell to the ground. It is not supposed to touch the ground and if it does a special prayer must be said



in order for it to be stood up again. The testimony was momentarily interrupted so that prayer could be spoken. After the prayer, Chief Ken Goodwill provides testimony about the nature of their inherent rights. As he says, and as many others have noted, too,

What we are trying to say is that whenever we talk about the kinds of inherent rights, it is not for anybody to give it to us, those are inherent. It is not for anybody – we don't have to get it from anybody. We are three Dakota people here. When we were here, or I guess all of our grandparents were here, there were people who came from different countries and were not willing to accept a kind of religion which was other than their own and developed in a relatively similar environment. They said we were pagans. They said we were inherently bad because we were not whatever we were supposed to be, whatever the good thing was supposed to be we were not.

Chief Ken Goodwill proceeds to describe the Dakota people's spirituality, particularly in regards to treaty making. He talks about the role of the pipe in making treaties, noting its importance in the process. In his words he says that "... when somebody smokes a pipe, the very fact that they use a pipe invokes a higher power to come and to be part of that signing or whatever it is. For us, and I guess for you also, for Indians when people sign a treaty and they use a pipe, they burn sweetgrass and they use a pipe, this was a sacred kind of event. It was not something to be taken lightly." He laments the fact that Canada has not upheld the sacredness of the agreements his people signed with the British Crown, particularly in lieu of the fact that concessions for housing and education promised via the treaties go unfulfilled. According to the Dakota peoples, surely Canada, as the successor to the Crown, will live up to the treaty signed with the Queen. In the words of Chief Ken Goodwill, "We are saying this is a valid agreement and you owe us." Chief Ken Goodwill quickly concludes his testimony as he notes that he is getting angry summarizing the injustices

he and his people have put up with through the years. “We demand our rights, that’s all,” he concludes.

Commissioner Erasmus is the only commissioner to ask the Dakota representatives questions. He asks them how the government initially dispossessed the Dakotas of their lands back in the nineteenth century. Chief McArthur recounts the story about the land for the commissioners. In his words,

This history from what I have gathered is that Clifford Sifton was a member of the federal government of that time, kind of a controversial figure. He had three civil servants in his department. They came out to the reserve in 1889 and they said that it was like an oasis in the prairies, there was a lot of land there but not many people and it was kind of a waste, why not move them over to White Bear. It would kind of cut the costs down a bit and make more room for the white people.

Apparently it was quite a scheme as Chief McArthur recounts how they even set up a fake company in Ohio that acted as a land-purchasing company. With the help of a Nakota person named ‘Ocean Man,’ they managed to convince the others to sell and then move to White Bear. They tried the same thing with the Pheasant Rump people.

According to Chief McArthur’s story, they came to Pheasant Rump and

... asked the people, they gathered all the men and they said they wanted to buy the land and they said they wouldn’t sell. That went on for a few days. Finally, the head guy there, I believe his name was Smart or Pedley or something like that, he got mad and he said, ‘You are going to sell the land to us or we’ll force you off. We’ll use the red coats,’ which would be the Northwest Mounted Police at the time.

Chief McArthur concludes the testimony by saying the people wanted to fight but some others suggested it would be a fruitless struggle for while you can try and resist, “... they’ll keep on coming.” So they reluctantly moved to White Bear and spent the next ninety years there until their own land was finally returned.

**XXVIII. Treaty 5 - Sandra Delaronde, President, Métis Women of Manitoba**

Ms. Delaronde begins her testimony in the birthplace of the Métis nation by commenting on the ‘circus-like’ atmosphere of the hearings that day and the RCAP proceedings more generally. The bright lights illuminating the hearings during her presentation remind Ms. Delaronde of the Manitoba Justice Inquiry several years earlier that, like the Donald Marshall Inquiry in Nova Scotia, shed light on the systemic racism endemic to each provincial justice system. She repeats a similar hope voiced by many people who presented to RCAP. In her words, she says

Sometimes it feels that the, I suppose coming out of the Aboriginal Justice Inquiry and now, and now this Royal Commission on the Aboriginal Peoples that often times it feels like we’re in a circus, you know and really what, what will be the eventual benefit. Are you having difficulty hearing me or?

She continues to inform the commissioners that many people had hoped that the Manitoba Justice Inquiry would produce change in the justice system and Manitoba society more generally and yet it failed miserably on both accounts, concluding that “... we’re concerned that that may be the case with the Royal Commission.”

After noting that the commission is not only interested in hearing about problems, but also solutions, Ms. Delaronde describes how the Métis peoples were disappointed with the protections offered to them in the 1982 Constitution Act, noting that it did not address the Métis women’s concerns with equality. However, she suggests she will not spend much time on these concerns and instead she will speak to matters specific to Métis women and provide information on ways to manage these matters. The reason why she is there is to tell the commission the importance of the following,

The point we wish to impress on the Commission is that the dominant Métis population of the original Red River settlement were dispersed over a wide area beginning shortly after 1870 and escalating rapidly following 1885. Métis people remained in parts of Manitoba but other people moved across what we considered the home land of Saskatchewan, Alberta, British Columbia, in the Territories. This is an important but widely overlooked fact of Canadian history that has vital implications for the future.

Ms. Delaronde reminds the commissioners of the increasing numbers of Métis peoples across the country and the importance of resolving their claims to lands in Manitoba. At the time of her presentation, the Métis Federation was involved in a Supreme Court case with regards to lands in the southern half of the province, the ‘postage stamp,’ she calls it, although she notes that many Métis people live in the northern half of the province as well. In the northern half of the province, according to Ms. Delaronde, there is a Métis Tribal Council seeking to realize lands granted to the Métis via an adhesion to Treaty 5. These land questions must be dealt with and the only way to do so, as Ms. Delaronde suggests, is to resolve the land issue with the government and come up “... with a solution to resolve the problem between the Aboriginal Nations regarding the land question.” Ms. Delaronde is concerned with the consequences of not rectifying the century-and-a-half of injustices with regards to Métis peoples and their lands. Chillingly, she warns that “Western Canada may soon be seen as a place with a rapidly increasing Métis population hostile to others. There is nothing we, as individual Métis can do to stop the increasing levels of hostility because there are sound reasons for this. And the reasons can only be changed by change of public policy.”

She suggests that should the provincial and federal policy makers fail to change their policy direction, Canada risks plunging itself into a conflict similar to the one in Bosnia in which Canadian peacekeepers were stationed at the time, “ ... trying to keep former neighbours from killing one another because of mistakes leaders failed to correct before it was too late.” She tells the commissioners what kind of policy changes will be necessary to avoid such a fate. As Ms. Delaronde puts it,

Account must be taken of the fact that large numbers of Metis live in remote rural and Northern Manitoba communities. The major reason for this lies in the decision taken by the Government of Canada following 1870 which, over the course of the next 30 years, effectively pushed the Metis out of the Red River settlement and other settlements in farming communities. The Metis rapidly adjusted to their new homes and continue to live and propagate in these communities right up to the present. Doing so, however, has resulted in the majority of Metis children, over the intervening generations, being deprived of educational standards that contain the two essential ingredients required for achieving, for achievement without having to endure innumerable hurdles.

The two essential ingredients include developing children’s mental faculties using a curriculum that accurately reflects the genuine culture and history of the Métis nation, and delivering a high standard of education in the institutions that service Métis children. She suggests that failure to provide a sound education to Métis children is the government’s way of pitting people against each other. Unfortunately it seems to do much more than that. Putting it rather diplomatically, Ms. Delaronde says,

Failure to provide for the full educational rights of Métis students represents a belief, on the part of Governments of today, that the Government did the proper thing 123 years ago, by pushing the Métis out of the lucrative areas of the Province into remote rural and northern communities or into urban ghettos where, among other things, it would be far more difficult to acquire higher levels of education.

Failure to create public policy that addresses the social problems successive governments have created in Métis communities since their expulsion from their

homelands is “ ... a signal of the collapse of public policy based on race and gender due to the fact that the victims are primarily Métis women and children while the policy-makers are primarily full grown, white males.”

Ms. Delaronde would like to see stronger government policy when it comes to development in the province, including legislative restrictions on the proposed development of a pulp mill and the proposed timber harvesting rights that would allow forestry companies to clear cut. If either should proceed without the consent of the Métis Women of Manitoba, Ms. Delaronde is asking that the commission “ ... use all the powers at its disposal to ensure that corporations and governments will be forced to meet all the terms and conditions of the Métis Women of Manitoba retroactively, including payments for damages and compensation.” The last thing the Métis Women of Manitoba need is “ ... a repetition of our worst historical disasters after the major decisions have been made under existing legal arrangements that are beyond our ability to control or influence to any degree.” She suggests the commission has a big enough public profile as well as the moral authority to intervene in such matters where time is of the essence. By bringing all this forward, Ms. Delaronde makes it clear that “The fact is that Canada has failed to listen to the rights of Aboriginal women regardless of who they are represented by.” Although women are doing good work at the community level, according to Ms. Delaronde, it is when matters are considered at the provincial and federal level that Métis women feel excluded by the Canadian government and male-dominated Métis governments as well. The commissioners

conclude this round of testimony by briefly inquiring into the resources available for women and children who experience violence in their lives.

**XXXIV. Treaty 5 - Ila Bussidor, Sayisi Dene nation**

Ms. Bussidor appeared before the commissioners on behalf of her community, Tadoule Lake, Manitoba. Her daughter, Holly, is also with her. Ila has two concerns she wants to communicate to the Canadian public through her RCAP testimony. The first issue is the topic of her community's removal from Little Duck Lake to Churchill, Manitoba in 1956. She tells the commissioners that after fifteen years in what she called the 'Churchill Camps' one hundred of her people had died, or one third of the population of the community. The effects, some thirty-five years ago, are still felt today. The second issue she wanted to bring to the attention of the Canadian public was that her people's lands in Manitoba and North of 60 were not as yet protected as treaty lands. She was seeking greater protection of the lands, for as Ms. Bussidor powerfully states,

We protest the outright theft of over fifty thousand square miles of traditional Dene territory, a theft orchestrated by the federal government...a government that right now, is concluding a deal that awards the Inuit people title to our lands North of 60, as part of Nunavut. It is clear that this is fundamentally designed to benefit the powerful resource interests that stand behind government policy. It is a deal created to pave the way for the kind of extractive, colonial-style development that has already destroyed much of Manitoba, and much of Northern Canada.

Ms. Bussidor disagrees with any development that only creates damaging floods and poisoned rivers and she vows her people will protect their lands with all their power. She implores people to look around and see what changes development has brought the region. In Ms. Bussidor's words, "... you can see what so-called

development has brought us ... you can drink to despair at the bars in town, or you can go to the reservations that sit like tiny islands in a blasted, burnt and flooded land. This is the future the government has planned for all of us, after they have exhausted all the riches of the lands.”

Ms. Bussidor proceeds to provide some context for the commissioners. She tells them that her people are known as the Sayisi – or the Dene from the East. She states that the Sayisi Dene peoples are the descendants of great leaders who played an integral role in the establishment of the Fort of Prince Wales on the Hudson Bay, land upon which the Sayisi have lived for thousands of years. The traditional lands of the 400 or so Sayisi Dene are located between the 58<sup>th</sup> and 64<sup>th</sup> parallels, alongside the migratory caribou herds that play such an integral part of their lives. At one time a much greater Dene population inhabited these lands, but as Ms. Bussidor explains small pox epidemics ravaged the Sayisi claiming over nine-tenths of the population in the 1780s after Europeans brought the disease to the region.

This is the reality Ms. Bussidor pictured in her mind when she thought of ‘progress.’ As she says, her ancestors have “toyed with this beast called ‘progress’” for the last two centuries. She credits trapping and trade with European settlers as the two biggest reasons that explain how the Sayisi became less independent. The social relations involved in both cases pulled the Sayisi peoples off their lands as they sought to adapt and survive to the new conditions inherent to settler colonial relations. As Ms. Bussidor puts it,

Trapping drew people south to beaver country, and trade pulled people south and east to the trading post. This made it more difficult to stay with the caribou making people more dependent on the Fort. The fur trade was very lucrative, but only for the Hudson Bay Company. The Sayisi Dene were exploited...kept in a position of



perpetual debt and dependency by the greedy Hudson Bay Company. Our forefathers did not realize that this "beast" with which they traded, would one day consume them and almost destroy them.

Ms. Bussidor describes how the language difference doomed the two peoples, Sayisi and Europeans, to fundamentally misunderstand each other from the beginning of their treaty relationship. So much so that Ms. Bussidor states there is no word for 'treaty' in the Dene language. She says that she thought it must have been a joke how at the time treaty commissioners for the treaty the Sayisi Dene signed in 1910, Treaty 5, were trying to turn Dene peoples into agriculturalists when they had hunted and gathered for thousands of years on their lands. "Surely" she says,

... the government had to have been as naïve about us, as we were about them. We had complete dominion over our lands for thousands of years as hunters and gatherers. The Europeans called our lands barren. To the Dene, our land was far from barren. Our people had the caribou and our culture was perfectly adapted to caribou migration over the full extent of their annual range – tundra in summer and forests in winter. Can you imagine us driving a herd of pigs across the tundra?

Despite their strong claims to the lands based on thousands of years of previous use and occupation and the protection of Treaty 5, the lands of the Sayisi Dene peoples have been depleted by European outsiders. Any efforts to exercise their power to protect their lands have been interfered with by a Canadian government Ms. Bussidor is adamant is only interested in supporting mining interests in short-term economic development and nothing else. Ms. Bussidor tells the commissioners that they need more land than what has been offered in the past.

Their request for more land ran into complications when the settler Canadian government started negotiating with the Inuit over the establishment of Nunavut. Initially, says Ms. Bussidor, the Sayisi Dene peoples were fine with the initial

demarcation of Nunavut, which was more respectful of their own territorial boundaries. But then she believes the negotiators grew greedier and extended the boundaries of Nunavut below the 60<sup>th</sup> parallel in 1989, which upset the Sayisi and dimmed their consent to the new region. At that point, according to Ms. Bussidor, “... the Inuit and the federal government were pushing for arbitration and rapid settlement of Nunavut’s new boundaries and terms.” Ms. Bussidor then provides more history into the tragically fatal relocation of the Dene to Churchill, Manitoba in 1956. She clarifies this history, saying

We were dropped off on a rocky peninsula on the outskirts of Churchill, with no means of building shelters for our families. The first winter was spent trying to survive the bitter cold, without the caribou, without good winter clothing made of fur, deprived of the log cabins that sheltered our families on the traplines around Little Duck Lake. These they could not bring. The dog teams starved first. The people spent the first Churchill winter in their tents. They survived by scrounging from the dump. There were no jobs for a people that spoke no English and were unfamiliar with routine. For three long years the Department of Indian Affairs was undecided about what to do with us, or where to put us. In 1959, they decided to build "Camp 10" on a windswept hill between frozen Hudson Bay and the town graveyard. By this time, our people were in total cultural shock.

Ms. Bussidor describes a time when people in the community could provide for their own needs, hunting caribou, fish, and fowl without any materials from the ‘white man.’ When European settlers came and dispossessed the Sayisi peoples of their lands they then introduced the Sayisi Dene peoples to something they had never experienced before - welfare payments. Unfortunately, when those would run out, they no longer had the ability to go out on the land and collect wild food “... from the land with the guidance from the Great Spirit.” The result was a community filled with illness, sadness, and death. The situation became so untenable at Churchill that the

government actually moved the Sayisi once more, this time to ‘Dene Village’ three-and-a-half miles out of town, neighboring the Inuit hamlet of Akudlik. But as Ms. Bussidor says, “Our parents continued to die off,” and as she states, often in violent ways. Her own parents died in a house fire one night after the young Ms. Bussidor had left to go the movies. Sadly, upon her return from the film, “... there was no home left, just a foundation of burning ashes.” Ms. Bussidor states that the tragic stories such as her own did not seem to matter much to the settler Canadian government or the other peoples in the region. She talks about how the Inuit in Akudlik, “... a half a mile away, looked down on us in utter contempt and disgust,” as the Inuit hamlet had more infrastructure and better-built houses than the Sayisi. Ms. Bussidor recalls how the Inuit in Akudlik had central heating whereas the Dene had wood stoves and usually never enough wood, which prompted them to use the timber from vacant houses in Dene Village.

It was from this horrendous state that somehow the Sayisi Dene survived, adapted, and managed to migrate to Tadoule Lake, Manitoba where they now resided and where they were able to begin to put their fragmented nation back together. But as Ms. Bussidor says, “We know of no relocation more destructive” as the one they experienced, what she could only describe as genocide. Ms. Bussidor explains that they are still waiting on an apology from the government, the establishment of a permanent healing centre, and the opportunity to repair the damage through renewed treaty negotiations.

The commissioners conclude this round of testimony by communicating how moving and sad Ms. Bussidor's testimony was and committing to raising the story of the Sayisi Dene peoples and their request for an inquiry with the other commissioners and with bureaucrats back in Ottawa. Commissioner Robinson notes the similarities between this story of relocation and two other stories of relocation she has come across so far as commissioner, the relocation of Inuit peoples known as the 'High Arctic Exiles,' and the relocation of the Innu people of Davis Inlet, Newfoundland. Commissioner Chartrand concludes this round of testimony by relating to Ms. Bussidor's story about how her ancestors did not even make their own signatures on the Treaty 5 document with a story he has heard in his travels. Commissioner Chartrand's story sounds similar in that in his story all the colonial officials had the treaty signatories do was touch the pen and the treaty was then considered signed. Despite the language problems encountered during the treaty making process, Commissioner Chartrand is adamant that Ms. Bussidor is demonstrative of the changes taking place as she was now here before the commissioners telling the story of her people.

**XXX. Treaty 6 - Brian Lee, Carol Wildcat, Jim Minde, Ermineskin nation**

The Ermineskin Cree are an Albertan-based peoples in the Treaty 6 region of Canada consisting of about nineteen-hundred people at the time of the testimony on a landbase of about twenty-nine square miles. Brian Lee points out in the introduction to their testimony that he does not agree with the label 'aboriginal,' for as he says, "We are not aborigines who have been transplanted from Australia, although it must be

noted we mean no offense to these people.” Speaking of the nation-to-nation relationships guaranteed by the treaties, Mr. Lee states that, “As nations, we entered into an alliance with another nation in which we agreed to live side-by-side in peace. Treaty 6 was an agreement between two nations to understand one another’s laws and governments, and not to interfere.” The Imperial Crown entered into binding agreements with “... First Nations under treaty. These trust obligations were placed in the hands of the Canadian state unilaterally by the Imperial Government of Great Britain.” Mr. Lee tells the commissioners that their interpretation of the treaties must be recognized, and the rest of the testimony helps put this interpretation into perspective.

Treaty 6 recognized and affirmed our inherent governments and laws. Treaty 6 First Nations are founded upon principles that recognize the supremacy of the Creator, the sacredness of the pipestem and the oral traditions of our elders who have passed on our laws from generation to generation. The Canadian Charter of Rights and Freedoms in the Constitution Act 1982 opens with the words, "Whereas Canada is founded upon principles that recognize the supremacy of God and the rule of the law." Moreover, Section 52(1) of the Constitution Act 1982 reads, "The Constitution of Canada is the supreme law of Canada, and any law that is inconsistent with the provisions of the Constitution is, to the extent of the inconsistency, of no force or effect." Canada makes something supreme by writing words. Our way of making something supreme and sacred is not with written words, it is with our sacred pipestem.

According to Mr. Lee, the Canadian government denies the capacity of this form of oral governance to empower those who uphold it. Yet it is from these laws given by the Great Spirit from which the Ermineskin peoples derive their authority. The treaty is meant to protect this spiritual structure through the creation of relations of peaceful co-existence in which they would “... not interfere in one another’s governments and laws.” In its current formation Canada

has a lot of work to do in order to uphold its responsibilities according to Treaty 6. Mr. Lee explains that Canada needs to restructure its laws in order to respect the spirit of Treaty 6 and the “... continued existence of inherent rights, including the right to self-government, and to ensure that the Crown’s trust obligations as set out in Treaty 6 are honoured.” Mr. Lee cites section 91(24) of the British North America Act as a fiduciary trust clause that was supposed to “... ensure that the federal government would have exclusive jurisdiction to administer the obligations which the British Crown had given pursuant to treaty,” but with the creation of the Indian Act and the effort by the federal government to pass its fiduciary responsibilities toward Treaty 6 onto the provincial government, the treaty obligations go unfulfilled. Treaty 6 created a unique set of social relations within the country. Mr. Lee says

As the treaty was entered between First Nations and the Crown, it set out the special relationship and obligations flowing between them. Treaty 6 places us in a different position than that of other aboriginal groups. It is our position that, as Treaty 6 First Nations, we must have our own separate and distinct discussions with Canada. We are not beginning discussions as other aboriginal groups may be. We are reaffirming our understanding of the constitutional relationship that was set out in the treaty over one hundred years ago.

To respect the spirit of this solemn agreement the parties must negotiate to create a tribunal comprised of representatives from each nation “... which would ensure the enforcement of the treaty obligations.” According to Mr. Lee, as a Treaty 6 nation, the Ermineskin Cree have their own laws and government “... which emphasize different principles and values than the Canadian government. Specifically, the Canadian Charter of Rights and Freedoms protects individual rights. In our way, collective rights always

take priority over individual rights.” The treaty, according to Mr. Lee, was a nation-to-nation agreement meant to build bridges in order to understand each other and peacefully co-exist. Mr. Lee emphasizes that as a Treaty 6 nation his people cannot do anything less than this for to do so would dishonour the treaty. He places great value in section 91(24) of the BNA 1867 and its ability to oversee the treaty relationship his people are seeking. As he states,

Section 91(24) can no longer be an open box to legislate in any way with respect to Indians and lands reserved for Indians. It is a legislative power of the federal government to ensure it fulfils its obligations pursuant to treaty. It is here that the spirit and intent of the treaty obligations must be reflected. The true nature of the trust relationship must be set out.

Carol Wildcat then takes over the testimony and begins by noting how the social and financial needs protected by Treaty 6 are an ongoing topic of concern and discussion for all of the Cree communities in the Hobbema region, including Ermineskin. She notes how the education system in the region is not serving the Cree communities well in terms of providing a safe, secure place for its students to learn. Ms. Wildcat describes that the communities’ overall attendance for all grade levels hovers around the sixty per cent mark. In terms of the labour market within the school board, Ms. Wildcat describes the inequality experienced by Cree peoples within the labour market, stating that she believes if Cree parents pay twenty-five per cent of the school tuition in some cases, they should see a similar percentage of Cree peoples working within the school board system. She also talks about the reduction in post-secondary funding, which is a treaty right protected by Treaty 6. In terms of development in the region, Ms. Wildcat says that “We need to start with the basics. We need to incorporate the traditional Cree teaching of group help,

group nurturing, with the European skills of trade, commerce and higher learning. We need to teach many of our unskilled how to work towards more fulfilling lives. If left alone, it continues to foster breeding grounds for violence and crimes. This adds stress to an already overcrowded justice system.”

Commissioner Blakeney is the first to respond and he does not waste much time digging into what he sees as a constitutional miscalculation in the testimony. Addressing the presenters he states,

I was not too clear on some of the earlier aspects. Perhaps I was reading some of the material a little too literally, but I think we will agree that Treaty 6 was signed in 1876-1877, and we will agree that Section 91(24) of the British North America Act went into that Act in 1867. We agree that none of the numbered treaties were signed before 1867. So, whatever 91(24) was put in there for, it was not to see that Treaty 6 was implemented, because there wasn't any Treaty 6, or there wasn't any Treaty 1 or 2 or 3. So, I suggest to you that it did not have that direct relationship to the implementation of the treaties, which the brief seems to suggest. The treaties which were around in 1867 were much less definite treaties than Treaties 1, 2, 3, 4, 5, 6, 7, 8, 9, 10.

Commissioner Blakeney pointedly puts it to the presenters, “What two nations would you say signed Treaty 6?” Mr. Lee responds that they were signed by the Cree nation and the British government in right of the Crown. Given that Treaty 6 was signed in 1876, nine years after Confederation, Mr. Blakeney wonders why Mr. Lee thinks it was the British government with which the agreement was made. Another Ermineskin presenter, Jim Minde, explains, saying

As you know, in the time that Trudeau was prime minister he patriated the Constitution. I believe that was in 1982. Before that Constitution was patriated, the BNA Act was delegated authority from the British Crown. So, any agreements that were made between the First Nations and, say, the federal government, was on behalf of the British Crown, because Canada did not have that authority.



Mr. Blakeney does not agree stating that Canada entered into many treaties. According to Mr. Blakeney, “I think they entered into them with the Canadian government as post-confederation treaties.” Mr. Winde agrees that they will have to disagree and says that

I guess, maybe, if you go back and study the negotiations that took place between the First Nations and, say, the federal government or the British Crown, it was made clear that the negotiators, or the commissioners, were out here representing the Queen. So, who is the Queen? Was the Queen the federal government, or is the Queen the British Crown?

Mr. Blakeney believes she is the Queen of Canada, but if that is the case asks Mr. Winde then why did the treaty commissioners for Treaty 6 suggest they represented the Queen? Seemingly frustrated, Mr. Winde concludes the long-winded treaty discussion by giving what Commissioner Chartrand calls a ‘straightforward position’ on a question posed by Mr. Chartrand in regards to the 1982 Constitution. As Mr. Winde sharply puts it to end the testimony, “We take the position that we don’t care what it says. All we want is the treaties recognized and the obligations that were made under treaty are recognized.”

**XXXI. Treaty 8 - Chief Bernard Meneen, Narcisse Moberly (Tallcree nation), Chief Johnson Sewepgaham (Little Red River), Chief Harry Chonkolay (Dene Tha), Francis Meneen (Tallcree), Gabe Meneen (Tallcree), Cliff Kazony (Boyer River), and Harold Cardinal, High Level Nation (Tribal Council)**

The following story comes from testimony in High Level, Alberta on October 29<sup>th</sup>, 1991 by the High Level nation and other nations within Treaty 8 territory. This territory encompasses the northeast corner of the province of British Columbia, most of the northern half of Alberta, the northwest corner of Saskatchewan, and part of the Northwest Territories, the traditional territories of the Cree, Chipewyan, and Beaver nations. The individuals who testified represented the national diversity evident in this treaty territory: Chief Bernard Meneen and Narcisse Moberly (Tallcree nation), Chief Johnson

Sewepegaham (Little Red River), Chief Harry Chonkolay (Dene Tha), Francis Meneen (Tallcree), Gabe Meneen (Tallcree), Cliff Kazony (Boyer River), and Harold Cardinal, whose national identity was not revealed during the course of the testimony.

Chief Johnson Sewepegaham from the Little Red Cree nation begins the proceedings. He lets the commissioners know that there are over two thousand members of his nation residing in three communities, Garden River, Fox Lake and John Dor Prairie, but he does not identify specific population numbers for each of the communities. He also insists that he believes that what he is about to say will ring true for other Indigenous peoples on Turtle Island. The Chief begins by providing some context for the treaty area his people live within. In Chief Sewepegaham's words,

As members of the commission are aware, our Nations are signatory to Treaty 8 between the Crown and several First Nations of this area. From our perspective, the promises and commitments entered into as part of the execution of Treaty 8 between our Nations and the Crown in right of Canada provide the sole legitimate framework for examination of the subsequent history of relations between our peoples, the Canadian government, and Canadian society as a whole.

In Chief Sewepegaham's view, the history of relations between the nations demonstrates the Canadian Crown's intent from the very beginning of the nation-to-nation relationship to avoid their obligations under the treaty. As the Chief says,

We believe that our current state, as a people and as Nations, is the direct result of the Crown's failure to honour its commitments under treaty and the Crown's denial of their obligations to protect and safeguard our rights and interests as Indian peoples as affirmed under the treaty. No process has been available to enable us to address these matters. As leaders for our two Nations, we call upon the Crown to enter into dialogue with our peoples about the need to redress the wrongs done to us and restore the honour of the Crown. If the Royal Commission is truly interested in furthering resolution of the injustices committed against our Nations in the name of the Crown, then you must join us in calling upon the Crown in right of Canada to return to the relationship between our peoples as intended by the treaty and enter into a comprehensive bilateral process of treaty review with each First Nation on a

Nation-to-Nation basis. Only this type of bilateral Nation-to-Nation dialogue will be capable of resolving our differences and restoring the honour of the Crown.

After making this plea for better relations between his nation and the Crown, Chief Sewepegham provided the commissioners with some of the history of their lands after the arrival of Europeans. He begins by informing the commissioners of his nation's very first dealings with Europeans. As Chief Sewepegham says,

Our first non-Indian relationships involving these lands were with the Hudson's Bay Company who came into our lands seeking fur for European markets. Examination of this relationship disclosed that our Nations and the Bay traders developed what amounted to a social contract under which our people retained proprietary rights to harvest the resources of this land and the Bay obtained an almost exclusive right to purchase finished furs and other products; for example, firewood, meats. Within the context of this social contract, First Nations people remained free to govern themselves and their affairs and European traders did not intrude into the cultural fabric of our Nations. This relationship and the social contract it secured came to an end when the Hudsons Bay sold its interest to the Crown in the Ruperts Land Agreement.

According to Chief Sewepegham, by the late 1800s it was clear that the consensus of his community was that this land agreement necessitated the creation of a new social contract between Europeans and his nation. Treaty 8 was the result, and according to Chief Sewepegham, it contained the following provisions:

One, Indian peoples would be free to use their traditional lands and their resources as they always have. They would be free to govern the use of these lands and its resources. Two, our Nations agreed that the Crown would have the responsibility of managing use of resources and land in a manner that would protect and allow for continuing Indian use of these resources. Three, Indians would not be forced onto reserves and would be able, except for those lands shared for settlement purposes, to continue to have the right to live upon and utilize their traditional land. Four, the Crown would provide under treaty, education, health, welfare and economic rights and other rights.

Bernard Meneen is the next Chief from the Grand Council of Treaty 8 to make a presentation during this round of testimonies and he begins by geographically situating

the treaty lands they are talking about during the testimony. As Chief Meneen states, “Treaty 8 covers a large geographic area as you just saw there on the map. It is hundreds of thousands of square miles, covering all of northern Alberta, part of the Northwest Territories, part of northeastern British Columbia and north western Saskatchewan.” The Salteaux, Dene, and Cree nations signed the treaty with the Crown in 1899; adhesions to this Treaty were signed in 1900, although this process is ongoing at the time of Chief Meneen’s testimony as he explains there are still nations within the treaty area that have yet to sign the adhesions. According to Chief Meneen,

Our Nations presently occupy approximately 50 communities located throughout the lands covered by Treaty #8. Our First Nations citizens who number approximately 50,000 and continue to use their Nations’ traditional territories located beyond their immediate communities to supplement and augment their livelihood. In the majority of our communities, the languages of our Dene, Cree and Salteaux Nations remain the first language spoken and used by our citizens.

The resources of the treaty area are vital to these nations’ survival, as the Chief suggests, “When our Nations signed Treaty, our First Nations citizens made their livelihood from their lands and waters found within their traditional territories. Our lands, forests, waters and the resources found on our territories provided all that we needed for our survival. They provided the environment which enabled us to develop our laws, our values, our beliefs, our languages, our cultures, our traditions and our societies.” As Chief Meneen goes on to say, “Our traditional lands provided us with enduring strength. Our lands and water nurtured the rich and diverse traditions of our nations and to this day provide the nourishment which our nations and our peoples require. It is our traditional lands and territories which enable us to look to the future with hope and confidence.”

Chief Meneen continues his testimony imploring the commissioners to imagine how the vast natural wealth helped treaty nations assist the first European settlers sustain themselves in the area, assistance that has since developed into an environmental catastrophe for the Treaty 8 nations in the form of settler colonial relations. That catastrophe is primarily related to the development of the Alberta tarsands, a vast scar on the natural landscape that has produced untold wealth for the shareholders of major oil companies, and very little for Indigenous peoples in the treaty region. According to Chief Meneen, “Our Treaty 8 lands contain the largest known deposits of heavy oil in the world and I am talking about the Fort McMurray tarsands. They contain amounts of oil which surpass the known quantities of oil in all of Saudi Arabia. In addition, our Treaty 8 lands and territories possess some of the largest producing pools of conventional oil and gas anywhere in the world.” As Chief Meneen states,

Our Treaty 8 territory possesses enormous wealth in its forests. They sustain large and growing modern forest industries. Our Treaty 8 lands and territories possess deposits of gold, zinc, iron ore and other minerals. They sustain modern mining industries which add to the wealth and health of Canada. Our Treaty 8 lands and territories possess huge bodies of waters, some of which provide the sources of some of the largest hydro electric energy in Canada. Think of the industries, the jobs, the business opportunities which they sustain in addition to those found in the fishing, tourism and recreation industries. The lands and territories of Treaty 8 possess some of the richest and the best agricultural lands to be found anywhere in Canada. Again, think of the industries that those lands sustain and the jobs and business opportunities that they create.

Upon highlighting the vast economic wealth these territories contain, Chief Meneen then asks the commissioners to consider why none of this wealth has flowed into Indigenous communities neighboring the profitable natural resources. He implores the commissioners to consider

... why these lands and territories could not sustain the costs of governing our First Nations. Tell us why these lands can no longer support the costs of educating and training our First Nation citizens or of meeting the cost of providing adequate housing, health and social care for our First Nation citizens. Tell us why these lands and territories cannot provide full employment, business opportunities for our First Nation citizens. Tell us why, explain to us why our traditional lands and territories can no longer sustain our nations. Tell us why they can no longer nurture the needs of our First Nation citizens. The issue of our treaty relationships. You may very well find that the problem lies not within the capacity of our lands to sustain us, but, rather, in the relationships outside of our Treaties which you have created.

Chief Meneen reminds the commissioners that these Treaty relationships are protected by the Canadian constitution, which provides mechanisms for the resolution of some of these issues. “We are a treaty peoples,” states Chief Meneen,

Our nations entered into a treaty relationship with your Crown, with your sovereign. We agreed to share our lands and territories with the Crown. We did not sell or give up our rights to our lands and territories. We agreed to share our custodial responsibility for the land with the Crown. We did not abdicate it to the Crown. We agreed to maintain peace and friendship among ourselves and with the Crown. Peace and friendship can only be nurtured through processes which allow Treaty partners to talk and resolve any differences through negotiations and good will. The unique and special relationship which is evidence by the existence of our Treaty places upon both partners a duty to take whatever steps are necessary toward creating mechanisms or processes for resolving difficulties and differences which from time to time will arise in the course of such a relationship.

He concludes his portion of testimony by reminding commissioners that sections 35 and 25 of the 1982 Canadian Constitution as well as the Royal Proclamation of 1763 are all part of a chain of treaties meant to protect the treaty relationships between the treaty partners, and that bilateral negotiations between Treaty 8 nations and Canada are needed as soon as possible to resolve some of the complications that have arisen since the treaty was agreed to by both parties.

Before Elder and past Chief, Francis Meneen, presents the group of Chiefs from the Treaty 8 nations asks Harold Cardinal to clarify for the commissioners how Treaty 8 is

recorded orally within the group of nations' collective conscience. As Mr. Cardinal states, "First, because we come from an oral tradition, our people have maintained a process of transferring information from one generation onto the next as fully as is possible. In addition to our own people's understanding of the treaty process, one of the things that have sustained our people and helped to keep refreshing their memory of the treaty agreements that they signed were the parchments that were left with them at the time of the treaty." Harold Cardinal states that they brought part of the treaty in parchment form to remind the commissioners of how fresh the treaty still is in the minds of its signatories. According to Cardinal, "The second element of that is that there were two commitments made by the Commissioners when the Treaty negotiations were completed. One is that the changes that were brought or that were agreed to as a result of the negotiations were to be recorded and a copy of a parchment form was supposed to be kept in perpetuity by the Crown's representatives. To our knowledge, we don't know if that has been done and whether the changes that were negotiated to the offer that was brought were ever fully recorded." Mr. Cardinal tells the commissioners that this is a vital part of the story of Treaty 8 as it is important to remember it includes an understanding of the terms beyond what is written down on the parchment, oral terms the Crown seems determined to forget.

Mr. Cardinal continues his testimony, turning the focus to a uniform worn by one of the other Chiefs testifying that day. Mr. Cardinal states that

The second item that I wanted to bring to your attention was the uniform that is worn by Chief Harry Chonkolay of the Dene Tha Band. You will note that that uniform is one that is described in the terms of the Treaties that would be supplied to our people. You may, I am sure, through other exposure you had had to aboriginal people, be somewhat familiar with the Two Row Wampum story of the whole Haudenosaunee people. For us in this part of the country, the uniform

represents the Two Row Wampum because if you look at the yellow stripes, those, according to our people, symbolize the commitment of Her Majesty to ensure that her laws would respect the laws of our nation and that the red coats that were present at the treaty would be there to enforce our laws and would be there with the authority of Her Majesty to stand behind our nationhood. If you look at the red stripes that are on the trousers of that uniform, for our people, they symbolize the commitment of Her Majesty to have available her Armed Forces to protect our nations from any attack or from anything which threatened their security and their integrity. If you look at the brass buttons that are on the uniform which have an imprint of the Crown, it was for our people an understanding that the sovereignty of our nations and the sovereignty of the Crown would crystallize in these uniforms so that the sovereignty and the integrity of our nations would be respected as part of the treaty process.

Mr. Cardinal concludes, “We wanted to bring this particular interpretation because it is one which our peoples have not had too much of an opportunity to express. When we say that the treaty-making process reaffirmed our nationhood, recognized our nationhood, recognized our inherent right to self-government, it is the uniforms for us that are evidence of that recognition.”

Co-Chair René Dussault is the first to respond to their testimony and he acknowledges that the interpretation of the treaties has been a frequently-raised issue throughout the RCAP proceedings. In many cases misinterpretations existed from the moment they were signed and those misinterpretations continued in the decades following the signing. Commissioner Dussault then informs the Chiefs that there will be a major research component to the RCAP process that will look specifically at the issue of treaties and this ongoing problem of their misinterpretation by the Canadian government. According to Mr. Dussault, any understanding of relations between Canadians and Indigenous nations must start with the treaties, but as things stand, there is not much knowledge of treaties in Canada in general, a tragic level of ignorance attributable in all likelihood to the fact that



Canadians exist within the context of settler colonial relations (Amadahy et al. 2009:113-114). Commissioner Dussault then questions the Chiefs about their constitutional argument regarding the treaty. Previously, they stated their belief that since self-government is a treaty right it has already been entrenched within the Canadian constitution under section 35 which protects Indigenous inherent and treaty rights. Co-Chair Dussault questions this interpretation stating, “Of course, I think you are all aware that the Supreme Court of Canada has not had yet to come down with an interpretation of what is involved in section 35; in particular, whether the inherent right of self-government is involved in section 35.” He then reminds the presenters about RCAP’s role in creating a vision for future relations among nations, and then asks them a question about what they think of portable treaty rights, which are rights applicable from one treaty territory to another.

Before they answer, Commissioner Viola Robinson responds to their presentations. Keeping in mind her Mi’kmaw background which she references in the following quote, Commissioner Robinson states,

Myself, I never could understand. Your treaties are so new. They are not even 100 years old and yet you have had all this trouble with governments. I just don’t know where the problem is or why they fail to set up a process to deal with you, why they hesitate to do so. I know why we haven’t from where I come from because our treaties are dated way back before Confederation and we had to go to the courts, to the Supreme Court of Canada even to get our treaties affirmed. Even after doing that, we still ran into barriers. But with these treaties here, there is no reason why the government cannot get into some kind of process to deal with you. I have always been appalled at why that hasn’t happened.

Commissioner Robinson asks the presenters about the treaty review process undertaken by the treaty council which they described earlier. Chief Bernard Meneen responds that

this is the second year of the process, which started off by first speaking to Elders about the treaty as some Elders in the community were alive and present at the signing of the Treaty 8 and its adhesions.

The fact that Elders were still alive was vital to the work done under the treaty review process as the members of the council undertaking this process traveled throughout the territories encompassed under the treaty to interview Elders about their knowledge of Treaty 8. At the time of their testimony, the council had traveled to Fort St. John, Slave Lake and Fort McMurray, but had yet to move into the Northwest Territories or Saskatchewan. Chief Meneen asks Harold to take over discussion of this topic, but before doing so Mr. Cardinal decides to first address something he felt was lacking in Co-Chair Dussault's description of the RCAP's work on treaties. As Mr. Cardinal says,

It seems to me that one of the things that is lacking from your description is any examination of the fundamental presumptions that exist in law and in government policy with respect to Crown/Indian relations. Until these fundamental presumptions are dealt with, it is not going to be possible to resolve the issues of Indian people under treaty in this region and, I might add, anywhere else in the country. It we look at one item, one that I would categorize as a fundamental presumption, I would ask what your Commission is doing in fully examining the Doctrine of Discovery which was reaffirmed as current law by the Supreme Court of Canada. It seems to me that if the law presumes and, hence, governments presume that by no more than having stumbled onto our territory, they gain sovereign ownership and jurisdiction and, as a result, that it is first our European nations rather than First Nations that have sovereign ownership of the land and territory.

Mr. Cardinal calls Canada's approach a 'forked tongue' approach since the country entered into nation-to-nation agreements yet "... while operating from a very narrow base where they presume, both in their policy and their law, that the only things that Indians have a right to talk about in the treaty process are some vague, wildlife,

harvesting rights that they may have to land, over their lands and territories, and whatever personal use that they might have.” In this interpretation, Mr. Cardinal suggests that rights protected in the Constitution are not much stronger than the rights guaranteed by a common lease.

Mr. Cardinal then returns to the subject of the Doctrine of Discovery in the context of the last round of constitutional negotiations. He states that it seems to him that

... because of the operating presumptions that are found in the Doctrine of Discovery, we have the unfortunate situation that we saw during the last round of constitutional discussions where white governments were embarrassed at the thought that aboriginal peoples might want to say they are distinct people, that they form distinct societies in this country. That is because those presumptions effect the attitude – you want to educate the Canadian public. However, as long as you have the Doctrine of Discovery as your fundamental basis or approach, then the only thing you can teach the Canadian public are racist doctrines because the Doctrine of Discovery at its core is a racist doctrine of law because it says that our people did not exist either as individuals or as nations; that our people had no sovereign rights to territory. So all you are doing is confirming these racist presumptions.

Mr. Cardinal then proceeds to lament the lack of bi-lateral discussions about Treaty 8 with the Crown. After noting that negotiations over proposed changes to the constitution via the Charlottetown Accord ignored Métis people and Métis lands, he lists several examples, such as the Métis in Alberta and Indigenous peoples in British Columbia, as examples where the Crown is trying to respond to the treaty concerns of Indigenous peoples in those provinces through bi-lateral discussions and negotiations. These are significant steps, particularly in British Columbia where only part of Treaty 8 and the Douglas Treaties on Vancouver Island had been signed, although rarely recognized. British Columbia may have only taken small steps toward better nation-to-nation social relations, but at least, Mr. Cardinal was saying, they have set up a Treaty Review

Commission to review how this process should unfold. Within the Treaty 8 area outside of British Columbia, with its vast amount of lands, resources, and peoples, no such commission or treaty review process exists. He continues and lists two other provinces, Ontario and Saskatchewan, that, according to Mr. Cardinal, have formalized some form of treaty implementation mechanisms within the Crown bureaucracy, but says, “In this province, in our Treaty area in particular, we have no such mechanism available through which we could discuss our concerns with the federal government or any other government.” Mr. Cardinal goes on to state that the Inuit have gone a step further and managed to negotiate an Inuit-run territory, Nunavut, and that in the Yukon, in particular the treaty signed by the Gwich’in nation, there are mechanisms in place so that these treaty peoples can have their concerns addressed by the federal government should the need arise. He concludes this portion of his testimony by suggesting that he raised the systematic lack of implementation of Treaty 8 to dispel the myth that treaty Indigenous peoples are, in Mr. Cardinal’s words, “coddled.”

Mr. Cardinal switches directions in his testimony shifting the discussion to the issue of whether or not treaty Indigenous peoples living in urban areas should be entitled to treaty benefits. His statement on the matter is emphatic. As he says,

The Treaty people’s position historically – you can go back and look at all of the briefs that were submitted to all of the Parliamentary Committees, to all of the Standing Committees, to the government from this province from the 1950s, indeed from 1948 and maybe even before then, and you will find a consistency in the position of our leaders that is still maintained by our leadership today. That consistency is simply this: that Indian people, that treaty people, whether they live on or off the reserve, are entitled to enjoy the benefits of their treaty. No position has been clear and no position has been restated more often than that position by our Treaty people. The difficulty that is there is not a Treaty problem. It is not an Indian problem. It is a governmental problem.

He then explains to the commissioners how the Crown is reluctant to label the delivery of services to his people regardless of where they are located as treaty obligations. As Mr. Cardinal states, “What that means, in a very simple fashion, is that they say, ‘We give you all of these services not because you are Treaty people, not because we have Treaty obligations to you, but simply because you are poor.’ That is a social policy position that recognizes the indigence requirements of our people.” It denies the nation-to-nation relationships that exist. It also, as Mr. Cardinal suggests, creates a divide between on reserve and urban-based Indigenous peoples as the reserve-based leadership takes the blame for not extending services to treaty people living in urban settings.

Co-Chair Dussault responds to Mr. Cardinal’s wide-ranging remarks and begins by addressing Mr. Cardinal’s point that underlying the Crown’s claim to sovereignty and all that it signifies are fundamental misinterpretations of history premised on the racist Doctrine of Discovery. He assures the presenters that the commissioners are looking at something that “goes deep to the existing paradox.” Then the co-chair suggests that to miss these underlying fundamentals risks plotting a path to the future that ultimately leads nowhere. In regards to Mr. Cardinal’s point about the portability of treaty rights, Co-chair Dussault notes that others have told the commissioners the same thing and that dealing with the issue raises some ‘practical questions.’ He goes on to address the matter of the Indian Act governance system’s infringement on treaty rights, “So we are pretty much aware of the assumptions under which you have been working all the time. We know that the system under the Indian Act is not a system whereby there is an acknowledgement that these are Treaty rights, obligations that are fulfilled that way.”

Co-chair Dussault then proceeds to state he would like to ask the presenters more questions, but Mr. Cardinal interrupts him to say that he felt like he did not complete his response to the Grand Council's review process of Treaty 8's implementation. Co-chair Dussault obliges and Mr. Cardinal continues by noting that he hopes the commissioners recommend that the Crown adopt the policy decisions inherent to the Charlottetown Accords. He tells a story of the history of such a process in the Treaty 8 territories. Mr. Cardinal begins by saying that

Some years back, the Treaty 8 people – in fact, I think it was during the 1985/87 constitutional meetings – entered into an agreement when this administration was fresh, when Crombie was still Minister of Indian Affairs, that was called 'Renovation of Treaty Negotiations.' Frank Oberley, who was then an MP, was appointed by the Minister to work with us in trying to set up a Treaty renovation process. It was intended to be a mechanism that would allow our people to address their Treaty concerns. The only thing that got renovated in the process was Frank Oberley's political career in the sense that he became a Cabinet Minister shortly after the Renovation Project was put into a state of hibernation and it is still at that stage. I think part of the reason for what occurred was the fact that since 1969, there has never been a detailed re-examination of government policy vis-à-vis Indian Treaties, particularly our Treaties. If you are to examine government policy on how they are going to deal with Indian Treaties, all they have to do is look at what was in the 1969 government White Paper and you will find the parameters of that policy contained therein.

Mr. Cardinal laments the loss of this process and suggests that the Crown was reluctant to participate more effectively in it because the Crown's representatives felt the process was more about the re-negotiation of the treaties than a review of their ongoing implementation. He concludes his testimony by imploring that the commissioners highlight for the Crown how important some of the policy decisions to come out of the Charlottetown Accord actually were despite the accord's eventual defeat. Recognizing the substantive change in Crown and Indigenous relations a successful Charlottetown Accord

represented, he hopes the commissioners can convince the Crown not to simply say, “We just made those offers for that situation over there. It didn’t really represent a change of heart or it didn’t really represent a recognition that we were wrong in the first place with the positions that we were taking.” Mr. Cardinal continues,

Part of the Treaty review process that the Grand Council is now involved in is to begin the process of trying to lay down the data, the kind of information that is going to be necessary, particularly in terms of protecting the evidence that our Elders have, so that that information can become part of whatever process takes on or occurs in the future. I guess I just wanted to make those comments, first of all, recognizing that there had been substantive major policy changes by the federal government vis-à-vis Indian Treaties. We want to make sure that those policy decisions are kept alive and transferred into some kind of new mechanism that our people to finally get into the kind of discussions that they have been after for so many years.

**XXXII. Three Figure Wampum - Jean-Maurice Matchewan (Lac Barrière), Harry St. Denis (Wolf Lake), Carol McBride (Timiskaming), Algonquin Nation.**

Chief Matchewan is the first of the Algonquin chiefs to present. He begins by noting that the Algonquin nation has never ceded its land within its traditional territory which “... includes all the lands and waters within the Ottawa River watershed on both sides of the Ontario-Quebec border.” Chief Matchewan tells the commissioners that the Algonquins have centuries of experience when it comes to contact with European nations and whether it was the French or the English, the Algonquins were seen as a nation of people who made treaties first with the French and later when they gained power in the region, the English. These agreements were made, as Chief Matchewan explains, between nations as allies, not as subjects of the Crown. Chief Matchewan cites the Québec Act of 1774 as an example of legislation that subverted the national identity of the Algonquins.

The original agreement between the Algonquin nation and the French and the English was referred to as the Three Figure Wampum belt. Chief Matchewan read out to the commissioners a statement from a speech by his father, the late Chief Solomon Matchewan, who spoke at the First Minister's Conference in 1987. The statement about the wampum went as follows:

It was agreed, at the time, that the Indian nations would always be recognized by the French-speaking and English-speaking nations as leaders on our own homelands, and that any negotiations regarding the use and sharing of the resources would necessarily involve the consent of the Indian Nations. Upon concluding this sacred agreement, it was witnessed by a representative of the church. As such, this agreement was blessed by a representative from the Vatican who would see its fulfillment. This is why a cross appears on the Wampum Belt.

Chief Matchewan clarifies that this wampum remains the basis for any and all agreements made with either the Canadian or Québec governments and, he adds,

... unlike the French, we were never conquered. Our Aboriginal and treaty rights are collective pre-existing rights given by the Creator. They cannot be taken away or altered by any government – imperial, federal, or provincial.... It is these rights that make us distinct from other Quebecers and Canadians.

Unfortunately, Chief Matchewan notes, the wampum agreement was broken by both the French and the English shortly after it was created.

The result of Québec and Canada not living up to their end of the agreement and not following through on their responsibilities as outlined by the wampum agreement was fatal for the Algonquin peoples. Chief Matchewan notes that the development undertaken by settlers, namely logging, led to the decline in fish and game in their territories which ravaged Algonquin communities through disease and starvation. The consequences were so tragic, in fact, that Chief Matchewan reports that this development led to the extinction of an entire Algonquin community, the Algonquins of Dumoine Lake. Chief Matchewan



concludes his portion of the testimony by noting how the development of reservoirs by the Québec government further depleted the game and fish in the Algonquin nation's once resource rich territories. He then turns the microphone over to Chief Harry St. Denis from the Wolf Lake Algonquin community. Chief St. Denis begins his testimony on the contemporary conditions experienced by the Algonquin peoples, noting how each of the ten Algonquin communities (9 in Québec, and 1, Golden Lake, in Ontario) have come to find themselves in different situations. According to Chief St. Denis,

In terms of land base, our communities find themselves in different situations. In 1853, the Timiskaming reserve was set aside for the Timiskaming First Nation. However, much of this reserve was alienated through questionable dealings facilitated by agents of the federal government. Today, there is much smaller Reserve at Timiskaming. The Barriere Lake people had a reserve set aside only in 1962; it is a 59-acre Reserve for 450 people. Wolf Lake does not have a reserve for their population at all.

This means that while Timiskaming and Barriere Lake have schools in their communities (Barriere Lake's is run by the settler Canadian government), Wolf Lake, since it does not possess a land base, must send their children to the town of Timiskaming, Québec for school. The communities are also besieged by high unemployment rates, low post-secondary education participation rates, and a housing shortage. Chief St. Denis locates the source of these problems in the failure of successive governments to uphold the wampum agreement made with the Algonquin peoples. This failure has meant settlement on Algonquin lands by Europeans was essentially unhindered, in direct violation of the wampum agreement, according to Chief St. Denis, and of the Royal Proclamation of 1763 which stated that any lands settled by Europeans first had to be purchased through, and only through, the Crown.

Ignoring this responsibility meant that settlers developed Algonquin lands illegally, which distinguishes Québec from the “... the situation in Ontario and the Prairies where settlement was either preceded by, or at least accompanied by, treaties of land secession.” Their underlying title to lands in Ontario and Québec “... placed a constitutionally recognized fiduciary duty upon the Federal Government to act in the best interests of the Algonquins with respect to these lands, especially in light of the constitutional situation in Québec.” Chief St. Denis concludes that in light of these various considerations, “... the Algonquin nation takes the position that we continue to hold aboriginal title to our traditional lands. We have never surrendered our title. And the Federal government owes a fiduciary duty to the Algonquin nation to protect our aboriginal title to lands in Québec and Canada.” Chief St. Denis states that it is the fiduciary responsibility of the Québec and Canadian governments to provide the resources to undertake the research necessary to officially determine the Algonquin nation’s land rights. But he asserts that these governments have been doing the opposite and, in fact, the Québec government was caught funding the internal development of a governance structure for the Algonquin peoples that aligned better with the interests of the government, according to Chief St. Denis.

Chief St. Denis suggests, based on a ruling by Québec Superior Court judge, Orville Frenette, that Québec has been governing itself in relation to the Algonquins and other Indigenous, Inuit, and Innu nations based on the racist, early 17<sup>th</sup> century belief that the province was occupied by ‘infidels’ prior to the arrival of Europeans and hence, in the eyes of the French government and economic interests, their lands were open for

dispossession by the French nation. Chief St. Denis makes a series of recommendations for RCAP to become familiar with, including the review of a report into the Algonquin's land situation, a report into political interference by Québec, and the creation of a mechanism to facilitate the implementation of self-determination and self-government. The chiefs' testimony concludes without providing Chief McBride an opportunity to speak. Fortunately that is rectified in due course.

Commissioner Dussault is the first to respond to the chiefs' testimony and asks for more information about the inter-nation organizing of the Algonquin peoples. Chief St. Denis informs him that six of the ten Algonquin communities have formed their own Tribal Council and have re-organized themselves accordingly. It is within this organization that Chief McBride suggests Québec has been exercising undue influence. Commissioner Dussault notes that this is a complex internal situation that RCAP will require time to understand, but for now Commissioner Dussault returns to the question of the fiduciary duty the three chiefs note that Canada and Québec are failing miserably to uphold. Chief Matchewan tells Commissioner Dussault that what they need more than anything is the money for research to develop studies and support their claims to their lands. Chief McBride explains further, stating that

... the Department of Indian Affairs is trying to move from the research and development phase to a validation phase, saying they have sufficient research to proceed on. The communities don't feel that they have sufficient research to proceed to validation, which would then lead closer to negotiation phase. It is a complex claim because it is in two provinces and it is an outstanding claim of over 227 years or so if you go back to the Royal Proclamation. Because of the complexities, they feel they need more research, especially since Wolf Lake and Timiskaming have not had the opportunity to do comprehensive claim research as of yet.

Some communities have actually received funding to do this research, but the government of Québec is insisting they already have enough information to understand the claims put forward by Wolf Lake, Barriere Lake, and Timiskaming. That said, Chief St. Denis informs the commissioners that Wolf Lake, Barriere Lake, and Timiskaming were not invited to participate in the production of the research Québec and Canada claim they possess on their communities. Chief McBride concurs, stating “... that it is probably difficult to demonstrate the existence of aboriginal rights because the fundamental research has not been completed, for example, in the case of Algonquins.” Commissioner Dussault asks the Chiefs to clarify one of their recommendations; the one in which they recommend special attention be placed on the unique situation Algonquins and other Indigenous peoples face in Québec. Chief McBride explains that such attention is necessary given Québec law is structured according to a civil code with roots in an earlier Napoleonic code of law and hence the context of this province is distinct from other provincial contexts.

Commissioner Dussault assures the Chief that special attention will, in fact, be placed on this question and then proceeds to ask them about their third recommendation. He wonders what self-government looks like to the Algonquin peoples. Chief Matchewan tells Commissioner Dussault about a set of agreements known as the Trilateral Agreements signed between the Algonquin peoples, Canada, and Québec in 1991, which supposedly would allow for sustainable economic development and respect for the Algonquins nation’s jurisdiction in this region. According to Chief McBride this differs from traditional land claims as it represents

more of a conservation strategy or co-management approach intended to prevent further clear cutting, flooding, hunting and fishing in the Barriere Lake territories. The issue of title to the land is still there, but this agreement is meant to act as a buffer to further development until the concerned parties are ready to address the claim more formally through tri-lateral treaty negotiations between the Algonquin nation as a whole, Québec, and Canada. However, as Chief Matchewan claims, “... ever since we signed this agreement, right after we signed the agreement, the governments have never respected the agreement. They held back money on us. The Federal government held back something like 14 months,” he states. The lack of control over their traditional territories via the Trilateral Agreements hampers any sort of economic development undertaken by the Algonquins.

The situation of the Algonquin peoples in Wolf Lake is even more pressing considering they lack a land base. According to Chief McBride,

The problem that we have specifically in Wolf Lake is that because we are not situated on a reserve, we don't qualify, I guess, to be able to give many of the programs that are given by the Department of Indian Affairs, because most of the programs are designed and geared towards registered Status Reserves. Us, we have just core funding. We don't have any control over issues like language because of that situation that we are in.

Chief McBride reiterates the position that the internal diversity of the Algonquin peoples means the various communities that comprise the nation are all at different stages of resolving their claims to lands in Ontario and Québec, respectively.

Commissioner Robinson is next to ask the presenters questions and wonders how the communities became so differentiated in their approaches to lands collectively considered the Algonquin nation's. Chief St. Denis reiterates that two communities, Maniwaki and

Golden Lake have received funding to investigate their claims to the land but five or six others have not yet received this funding. What makes the situation even more complicated is that the Canadian government states that the claim formally lodged by the community of Maniwaki is a comprehensive claim that includes all of the Algonquin communities even though very little space in the claim is devoted to the situation at Wolf Lake.

Commissioner Robinson then asks how the Trilateral Agreements apply to the other Algonquin communities. Chief Matchewan replies that “... the procedure of this Trilateral Agreement is pretty much that we argued a lot of times about it, that this is not a land claim, it is about conservation. Today, it still stands that it is a conservation strategy,” and because of this fact the Chiefs from the other communities let go of their reservations with Barriere Lake forging ahead to develop the strategy. The strategy was crucial, according to Chief Matchewan, because, speaking of the Québec government,

Right now, they are taking out everything. This was to slow them down or to better up their policy is why we signed the agreement, because under the agreement that they have, they did not make room for us. They just gave the whole forest to the logging companies without even telling us what they were planning on doing.

In reality Chief St. Denis says, concluding their testimony, that on the question of self-government for Algonquin communities in general, “I guess that is something that will have to be determined by the member communities, members of the Algonquin nations, whether they want to have self-government of all areas that will have to be determined by each individual. It would be a negotiated thing between the Bands too, as well I guess.”

**XXXIII. Two Row Wampum - Stuart Myiow Senior, Stuart Myiow Junior, Mohawk Nation**

The theme of the Myiows' testimony, at least in the beginning, is one of acceptance, something in which the senior Myiow does not believe. In fact he believes his people will become less accepting in the future " ... for now we know the dangers that lie in wake." Presumably he is speaking about the acceptance by the Mohawk peoples of the Europeans who settled on Turtle Island, for he goes on to say that "For the white people, the foreigners that came to our shores - they gave the impression that they were friends in search of a new life, but that was only words. They were sick when they came, not only physically, but mentally. If you go through your history, you will know what I am saying." Mr. Myiow states that the Mohawk peoples saved the Europeans with their medicines and "In return, they were given death and to this day death comes in many forms, many forms. Acceptance is one form."

He continues to testify about the nature of this acceptance as he talks about the people in the Mohawk community of Kahnawake accepting the European way. According to Mr. Myiow, "The problem isn't only with the invaders. The problem is with our own people. Acceptance means approval. Therefore, you have a system that has been put before you. First, it came in the form of the Advancement Act, then the Indian Act and it was all accepted, although there were lives lost." It soon becomes clear that Mr. Myiow has a problem with presenters from Kahnawake who testified earlier in the day because he tells the commissioners that he came there " ... not to hurt you, but that is inevitable. I would rather that you get your feelings hurt than lose your children in the process. I don't mind hurting your feelings, as long as we get a better

understanding and I really love the questions that you put forth this morning to the supposed people of the Longhouse, and I mean ‘supposed.’” Mr. Myiow cautions the commissioners not to expect unity among the Longhouse peoples, relating it back to the relations of disunity amongst the settlers in the context of settler colonial relations.

In his words he states that

In your system, you have opposition parties. Nobody is all together. Don't expect our people to be all together. That is foolish. Don't expect it. I will give you the reason why not to expect it. The reason why I say "don't expect it" is because of the influence imposed upon us by the white invaders of this country, our country - our country. Make no mistake.

His testimony proceeds to range over a diverse number of topics from a brief mention of lacrosse, stating that lacrosse and indeed “Everything about what the Creator has given us is medicine,” to a discussion of how he might end up in jail because settlers refuse to honour their responsibilities as laid out in the Two Row Wampum treaty agreement. As Mr. Myiow explains, “I may end up in jail because your people ignore the truth,” he says to the commissioners. “They don’t want to honour them treaties. They don’t want to honour it. I will gladly go behind them bars for something right – gladly. But when are you people going to start being human beings?”

His next target of criticism is the band council system, which Mr. Myiow says is

... still doing ... wrong to our people. They are sitting and accepting and imposing and oppressing the traditional people who are the only title holders of this land. We have informed you people that any negotiations whatsoever that take place without the traditional people are null and void because they don’t hold title to the land. There was no band council in existence when those treaties were made and as long as I am living – maybe that won’t be long.



Mr. Myiow believes all activities of the band council should be halted while people are looking for solutions to the problems experienced by community members, for “It is today we need the remedies, not four years down the road because the genocide is about to be culminated. It is right at our door. The completion of it is right at our door.” He proceeds to pick up on a line of questioning started by Commissioner Chartrand who asked how other nations would relate to the Two Row Wampum. The Two Row Wampum agreement was forged by the Haudenosaunee peoples and successive European peoples beginning with the Dutch in the early seventeenth century (Hill 1992:149) who sought to colonize and settle on Turtle Island. Mr. Myiow explains that when Europeans first arrived on Turtle Island they sought to establish relations with the Haudenosaunee peoples based on a ‘father’ and ‘son’ relationship. He tells the story of how his people said, no; instead “We will be brothers for a father can reprimand his son, but brothers have to sit at the table and discuss these things. I can tell my son what to do, but if I want to speak with Billy, we are going to sit down and negotiate what is right and what is wrong, what is beneficial for not only I, but all of my people – all of my people.” Reality, says Mr. Myiow, is difficult to come by but he gives the commissioners some indication of what reality constitutes in his mind, and at the heart of it is the Two Row Wampum. As Mr. Myiow says of this agreement, the “... Two Row Wampum is the way we are supposed to sit down and then there is that covenant chain. On top of that, there is that treaty alliance that we have, but on top of all those is our Great Law which dictates to us how we are supposed to conduct ourselves.” Money seems to be the main obstacle to the wider acceptance of this chain

according to Mr. Myiow, and the idea that a return to traditional ways will deprive people of the privileges gained under the band council system. As Mr. Myiow sees it, “Everybody eats when one person eats. Everybody suffers when one person suffers. When we stand, we don’t stand alone. We are supposed to stand together, not behind – together.”

Mr. Myiow provides the commissioners with some idea of how such a collective decision making system works within Haudenosaunee political society. If there is a problem disturbing the Mohawk nation

we send a runner with the Wampum to the Onondaga Council - that is the central fire - with a full explanation of the case, question or proposition, whatever. They, in their heads, consider it. If it is worthy, if they can solve it in their minds, then they will give this message to the runner and he will come back home with this message. But if they feel it requires the attention of all of the five nations, from that point, they will send runners out from Onondaga to the other three nations. You see, the Onondaga, the Seneca and the Mohawk, they are the Elder brothers. The Cayuga and the Oneida are the younger brothers. That is the five nations and it is never, never, never to be called six - never. Any nation that comes in comes in under the wing, under the protection of the five nations.

He then returns to his theory on acceptance, eliciting a chuckle in the process. To do so he makes a comparison between the band council system and cyanide covered in chocolate.

In Mr. Myiow’s words, “If I gather all of the cyanide and I put chocolate over it and I mark - what is it? - ‘Oh Henry,’ many people are going to accept that. They don’t know that they are going to die. They don’t know it because it was covered with chocolate.

Well, that Indian Act band council system is covered with chocolate.” He provides the commissioners with some information on the history of the traditional beliefs in the community. As Mr. Myiow explains,

Words were spoken of the wampum. That is most sacred. The Creator has chosen to send among our people an individual recognized as the Peacemaker. You people have your stories; we have ours. You speak of Jesus Christ and Mary the Virgin and all kinds of things like that. I am speaking of the reality, the truths.

This individual was responsible for introducing the wampum structure to the Haudenosaunee, starting with the 13 Strings of Condolence. “As history has told you,” says Mr. Myiow, “there was strife among my people because when the Peacemaker first came, he gave us the four sacred ceremonies and he gave us the message that he is going to cross these waters to spread the good word of peace and power, righteousness. He left us those four sacred ceremonies, but he came back later and my people were out there picking the medicines for the youngsters to enjoy.” Mr. Myiow continues the story, telling the commissioners about the formation of the Great Law. In his words he says that

As they were picking, they were frightened. This individual didn't walk. He was floating above the trees. He said, "Don't get scared." He said, "I want you to go and get your leaders." They did. When they got to the place they called home, the Longhouse, they explained what took place and they asked for the description of the individual. From the description that they had given, they remembered from old times what had been told what was going to happen. You might refer to them things as prophets today. So the leaders went out. They were not yet Chiefs. This is way back. You weren't born then. They went and confronted the individual. Today we refer to him as Peacemaker. Some people refer to him as the Creator. From there was told the story that in the future, there will be a man from the west. He will be going east and he will meet a man from the east going west and together they are to bring about that peace and harmony, a good message of peace and power. This is where our Great Law was formed.

When Mr. Myiow thinks of self-government he thinks of nothing less than living according to the Great Law of Peace. The band council system is not acceptable, according to Mr. Myiow. Any sort of self-government has to be exercised “... under the Great Law and nothing else.” Some kids must have entered the room where Mr. Myiow is presenting. He acknowledges them and says to them that

The important thing that these kids must hear - when they hear the Creator, they have to remember the Great Law of Peace that has been given to us by the Creator. We are the most fortunate people on the face of the earth and we are abusing it and we continue to let it be stepped on by people who wish to have their own desires serviced and pleased. It is a bad situation that we are in.

Mr. Myiow is adamant that the Great Law has much to teach everyone who seeks its understanding. Mr. Myiow explains how it can be used by

... you and each and every one of our brother nations that are out there, they can use it. They may need a little assistance, but it can be done. It can be done instead of using this money foolishly that has been sent to our people. The best effort hasn't been put there in as far as the true law and the true ways of our people are concerned. It has not been done. It is the same as in your white system. The elite stay elite and the peon stays a peon. They have adopted that same attitude here within our territory.

Mr. Myiow is convinced that “... the ways that the Creator has given us is the only way. None other. There is no human being that is walking the face of the Earth that is going to invent a law that is going to be better than what the Creator has given us – none – regardless of who it is.”

The senior Myiow ends his testimony and turns the microphone over to his son, Stuart Myiow Jr., who proceeds to tell the commissioners that the Five Nations Confederacy refuses to add credence to the Royal Commission by offering it a description of grievances that it can then take back to the Canadian government. Instead he is there to “... offer the only legitimate solution suitable to all my people and your government,” which is the world’s oldest peace treaty, the Two Row Wampum. Mr. Myiow Junior explains to the commissioners that it is important to first remember why such a treaty was necessary in the first place. According to Mr. Myiow Jr.

As our two societies merge together, the disrespect for creation, the need to impose false beliefs and false government, the inability to work with the truth and the unwillingness to abide by the laws of your own government, by your ancestors clashed with everything our people stood for, so much so that it brought our two societies to an actual state of war. Picture not just one Corporal Lemay but thousands. This, of course, would have eventually brought us to a state of mutual annihilation. As this created a need for peace between two very basic fundamental ways of thinking, the Two-Row Wampum provided the means in which it could happen. On our part, we have stayed true to our word and have lived in peace ever since except for where provoked. However, on your side, your government has gone against its word and still to this day persists in its acts of war against the true people of this land.

The Corporal Lemay he is referring to was an officer for the Québec provincial police force killed by a still as yet to be identified party in the aftermath of a violent police raid of the Mohawk peoples involved in the direct action at Oka, Québec in 1990 (York and Pindera 1992). Sounding similar to the critical theorists of commissions reviewed in a previous chapter, Mr. Myiow Jr. explains the belief some hold that the government created the situation at Oka in order to compel to order a commission such as RCAP “ ... that would have the mandate from the government to go on a fact-finding mission probing the minds of the Native to get our suggestions as to what changes in policy should be made in order to bring us to a new relationship.” This relationship will be predicated on a notion of self-government as prescribed by the commissioners; and all of this, according to Mr. Myiow Jr., “ ... to make it look like, through our input, Natives had utilized the governments process of resolving civil unrest and requested self-government which couldn't be further from the truth.” As he tries to explain to the commissioners about what he says is ‘your type of government,’

The traditional people will never allow any other relationship other than the Two-Row Wampum for the self-government deal as prescribed relieves the federal government of its treaty obligations to us that we recognized our titleship to our

lands and our sovereignty. We, as Native people, have learned that your type of government is no good for no one and does not even work for your own people for you laws are created loopholes so that a good lawyer can squirm there way out of them because there is a complete lack of truth in your government and still a total unwillingness to abide by its own law.

Mr. Myiow Jr. is clear that this obligation will never go away as “ ... true traditional people who will never free the government of its obligations. We will stand to the death to not allow disrespectful people to become the title holders of our Mother Earth.” Mr. Myiow Jr. explains that the consequences for failing to adhere to the Two Row will be a state of war similar to ones previous on this continent, and “ ... we will return to the same state that existed that demanded the need for the Two Row Wampum in the first place.” Mr. Myiow Jr. explains how the “ ... deep respect and understanding for the ways of creation,” a belief system not possessed by ‘the foreign people,’ is what separates these two peoples. He does not lay all the blame for breaking the Two Row at the feet of settler Canadians, however. Circling back to the theme of acceptance, Mr. Myiow Jr. states that “The breakage of the Two Row Wampum lies mostly on the shoulders of my people. It has been my people who have broken this Two Row Wampum all the way down the line for, as was stated by my father earlier, acceptance is breakage.”

European settlers are also responsible for ignoring their responsibilities as laid out under the Two Row Wampum agreement because their ways are still the ways of the Roman Empire, as Mr. Myiow Jr. says, “You are still under the same type of dictatorship which is based on slavery.” It is a dictatorship that ignores its treaty responsibilities and as a result of this neglect situations such as Oka become necessary. As far as Mr. Myiow Jr. understands things, “Right now, there is no one in their right mind who can deny that

the Canadian government, the Québec government is pushing our people to a state of war more and more every day.”

At this point Commissioner Erasmus intervenes and asks the “Why don't you start answering some of those questions? Both you and your father have been talking about an hour and a half. Why don't you use some of your time to answer some of those questions?” Mr. Myiow responds by asking what questions the commissioner is referring to and Commissioner Erasmus clarifies, saying, “I think you have probably heard them, but how would you want the Canadian government to begin? Who should the Canadian government deal with?” Mr. Myiow Jr. suggests that in the first place this means the Governor General who is the appointed representative for the Canadian government on Two Row matters, for the person in that position “ ... knows precisely who is and who isn't because remember one thing. It is the conspiracy – and when I say this, I mean it. It is the conspiracy of the Canadian government to do away with Treaty Indians. So they know our law better than all our people here put together. They know exactly who is and who isn't. I will bring you back to the summer of 1989 just before everything had exploded when,” Mr. Myiow says before Commissioner Erasmus interjects again. The commissioner says, “Excuse me, rather than telling us long stories, could you just explain to us who the government should deal with.” Mr. Myiow Jr. tells the commissioner that this is what he is in the process of doing and proceeds to explain how different groups within the community have not been supported in any sort of effort to unify on account of the fact that “ ... it is not only the white man who is afraid of the truth, but our own people.” Mr. Myiow then moves on to explain some context behind what he refers to as

the 'two-by-four' incident, but Commissioner Erasmus interrupts him once again, saying that "It seems like we have interrupted some kind of internal meeting. If you want to have a community meeting, have a community meeting. At the moment, what we are trying to do is hold a hearing here and you have asked to make presentations to us. So please do that. We have already been told by other people that your community should get together and discuss these things. Please do that, but don't do that now."

Mr. Myiow explains that this is what he was, in fact, doing. "Your request was: Who do we deal with? My answer was you deal with the true traditional people." Mr. Myiow then tells the commissioners that they should go back to their government and tell its representatives that Canada's Governor General must deal with the true traditional people and only those people, which does not sit well with Commissioner Erasmus. He says in response to Mr. Myiow Jr.'s suggestion, "So are you saying that only the people you are saying are the real traditional people are going to be involved in some kind of a consultation on implementation of your original treaties, that the rest of the Mohawk people and the rest of the Iroquoian people, if they are not in this group that you will call the real traditional people, are not going to be part of this process?" Commissioner Erasmus's question demonstrates a conflict in his understanding of the Canadian government according to Mr. Myiow Jr., for, as he says to the commissioner, "Your understanding of government is based on what you call "democratic society" which is, to my people, nothing but a bunch of garbage. Democratic society is the biggest farce that this earth has ever seen because democratic society does not represent anything except the dollar." Who will represent the Haudenosaunee peoples will be decided by "... internal



politics that is to be decided by nothing by the Kaienera:kowa which is the Great Law of Peace, which means that if you have 7,000 Indians and just one inside of that law, it will be that one who will speak because it is that one who has the right because it would be that one who has remained true to the law.” He continues and states that the commissioners should have no concerns about who the Governor General will speak to. All they must concern themselves with is making sure the Governor General does the job and holds those talks.

Commissioner Erasmus clarifies his question, asking Mr. Myiow Jr. “If we are having different people that are considering themselves Longhouses, how do we recommend to the Canadian people that they deal with one Longhouse people as opposed to another?”

Mr. Myiow Jr. reiterates this is not the commissioners’ concern. According to him,

All you have to do is tell the Governor General that he has to start dealing with the true traditional body and the Governor General already knows. You may not know because you do not have all the knowledge and all the accessibility to the knowledge that is necessary that the Governor General is accessible to. That Governor General knows exactly who he has to deal with. He can pinpoint - out of 7,000 people in this town, he can pinpoint exactly who because he has the accessibility to all the information as to who is who.

This does not seem to sit well with the Commissioner Erasmus as he asks in response, “While we are here, why don’t you tell us who he should be dealing with.” Mr. Myiow does not hear the question initially so Commissioner Erasmus repeats it, “While we are here, why don’t you clue us in as to who he should be dealing with.” Mr. Myiow repeats his answer, “the true traditional body,” upon which Commissioner Erasmus asks again who they are and Mr. Myiow confirms that “The true traditional body are those who have not, as the Indian Act system says itself, prescribed to foreign law.” The true traditional

body is a handful of people according to Mr. Myiow Jr., which leads him to rhetorically ask,

Now, the underlying issue beneath this is that if there is only a handful, why does the government have to deal with it? Because the truth of the matter is that it is the spirit of our people that rises up and stands up against these things. Again, the biggest example is what happened in Oka. You see, it wasn't the people who were motivated by knowing our law. They just knew that they had to stand up which plunged us into a state of war. They did not know all the politics. They did not know the politics of your government or of my government. They just knew that something had to be done. Had the government not stepped out of its guidelines of that Two-Row Wampum, which is enforced in its own Constitution, had the government not broken its own laws, all of that could have been avoided and had they dealt with the true traditional people, they would have seen how it is going to be avoided. If you do not listen to the true traditional people, I guarantee you that this entire country will be in a state of chaos because when they push the Mohawk Nation the way they are pushing, when they are bringing us to the brink of war, our people are going to stand up and you are going to see people across Canada stand up. People across Canada are going to come to realize that it is not just a Native issue.

After a few more minutes of testimony, Commissioner Dussault decides that this is perhaps a good time to conclude the testimony, and he thanks the father and son for presenting. He then asks any of the other commissioners if they have final questions for the duo, but no one does. Commissioner Erasmus thanks the two for their frank talk, noting that “No one can ever say you weren't.” Frank, that is. Commissioner Chartrand makes a final statement, saying, “I wanted to say that I did not come to the Commission with any preconceived notions about what we might recommend to the government ultimately, but thank you very much.” Mr. Myiow the senior says in response to conclude the testimony, “We got exactly what we expected. Have a good day.”

**XXXIV. Peace and Friendshioop Treaties - Alex Christmas, Union of Nova Scotia Indians, Mi'kmaw Nation**

Presenting from Eskasoni, Nova Scotia, Mr. Christmas starts his testimony by providing the commissioners with information about the Mi'kmaw nation's governance structure in their traditional territories. According to Mr. Christmas, the traditional government of the Mi'kmaw peoples is known as the Sante'Mawi'omi, which translates into the 'Grand Council' or the 'Holy Gathering.' Established over one thousand years ago, it is a federation of Mi'kmaw peoples who live in the traditional territories of the Mi'kmaw nation known as 'Mi'kma'ki.' According to Mr. Christmas,

This territory is made up of seven sakamowti or districts, and each was in turn divided among many wikamow or clans. Mi'kma'ki covers what is known as Newfoundland, Nova Scotia, New Brunswick, PEI, St. Pierre et Miquelon, the Magdalen Archipelago, and the Gaspé peninsula of Quebec. All of the sakamowti are represented on the Sante'Mawi'omi, and its leadership is made up of three positions: the Kjisakamow, the Grand Chief, who is the head of state; the Kjikeptin, Grand Captain or War Chief, is the executive; and the Putus is the keeper of the Constitution and the rememberer of our treaties. We had full control and jurisdiction over our internal affairs, as any national government would. We maintained authority over foreign affairs and entered into treaty relationships with other First Nations to formalize trade, alliances, and many other matters. These treaties were not static. They were the framework for living and evolving relationships between our Nations.

The Mi'kmaw peoples have a long history of contact with European peoples. Mr. Christmas reminds the commissioners that they were in contact with Europeans long before Columbus ever crossed the Atlantic Ocean. He recalls for the commissioners, for example, that the Mi'kmaw were in contact with the Vikings and the Basque fishers who came to their shores to harvest resources, although “... sustained contact and formal relations really began in the 1500s with the arrival of the French.”

According to Mr. Christmas, the Mi'kmaw nation's relationship with the French was

based on mutual cooperation and respect, focusing on developing trading relations and not as much with settling upon the Mi'kmaw peoples' lands. As Mr. Christmas says, "Another important product of our contact with the French was the formal relationship with the Roman Catholic Church. On June 24<sup>th</sup>, 1610, our Jkisakamow, Membertou, was baptized as a Catholic, and a covenant was made to protect the priests of the church and the Frenchmen who brought the priests among us." This relationship was formalized with a wampum belt depicting symbols of the Holy See on the left and symbols of the Grand Council on the right. In the middle " ... a priest and a Chief hold a cross, and in the hand of the Chief is the Holy Book. Over the next 90 years, the whole of the Mi'kmaw Nation became Catholic and took St. Ann as its patron."

Trade and religion were not the only European exports to Mi'kma'ki, explains Mr. Christmas. Europeans also brought war to the continent as conflict between the French and the English raged throughout the 18<sup>th</sup> century, dragging the Mi'kmaw into a perpetual state of war in which they did not want to participate. Mr. Christmas suggests that the British were laying claims to parts of Mi'kma'ki as early as 1621, putting them in a conflict with the French that was to last approximately 140 years. The Mi'kmaw found themselves in an alliance with the French on account of their shared faith and their shared belief that the British were pagans because of their desire to eradicate Catholicism. According to Mr. Christmas, the Mi'kmaw and the French managed to maintain this alliance until 1690 when the French surrendered to the British at Port Royal, Nova Scotia. After that, the Mi'kmaw continued to wage war against the British until 1699.

In his testimony, Mr. Christmas picks up the history again in 1722, the year when hostilities between the two nations were renewed. Around this time, however, the Mi'kmaw were a part of the Wabanaki Confederacy, a federation of Indigenous nations that included the Penobscots, Wolastoqiyik (Maliseet), and the Pasamaquoddies. The Mi'kmaw peoples captured twenty two British ships during this state of war. So formidable, in fact, were their efforts on the seas that the British sued for peace and a chain of treaties was concluded in Boston in 1725. These treaties were then taken into the territories of the various nations where they were to be ratified, according to Mr. Christmas, but the Mi'kmaw nation as a whole did not agree to the treaties; only one district within the nation did, the Gespogoitg district. This led to the persistent courting of the Mi'kmaw throughout the 1700s as both the British and the French sought their support in the continental struggles between the two European nations. Mr. Christmas suggests that “... the British emphasis on settlement of our territories, and their colonists' refusal to honour the Crown's commitment, was viewed as a threat.” As a result the Mi'kmaw Nation's Grand Chief declared war once again in 1749.

This renewed conflict led to peace talks approximately three years later in September 1752 when Mi'kmaw Chief John Baptiste Cope came to Halifax, Nova Scotia to meet with the governor at the time, Pergerine Thomas Hopson, and his council. Mr. Christmas recounts how the Chief and several other representatives of the Mi'kmaw nation returned in November of that same year and began discussions which resulted in the re-affirmation of the principles established in the 1725 treaty as well as

the establishment of a new Peace and Friendship Treaty known as the 1752 Treaty. The British colonists, however, continued to ignore the tenets of this Covenant Chain of Treaties. The situation grew more complicated when the French were once and for all defeated in the territory in 1760 and the little power they exercised in the colonies was finally extinguished. With the reduction of French power in Nova Scotia, Britain became the controlling European nation in the region and immediately began seeking the consent of the Mi'kmaw peoples to peacefully settle in their territories, even though the British colonists continued to ignore their responsibilities according to the 1752 Treaty. This led the Mi'kmaw into an alliance with American colonists on July 17<sup>th</sup>, 1776. This alliance held until 1779, when the Mi'kmaw renewed their relationship with the British Crown. The Covenant Chain of Treaties outlined in this story is an instrument for defining the responsibilities of each nation. In Mr. Christmas's words,

To us, the treaties are instruments which define the relationships between Nations. They can cover many or few issues, depending on the situation. And they must be read with other relevant instruments, such as the Royal Proclamation of 1763 and other Imperial instructions to colonial governors, for their full meaning to become clear. Together, all of these are links in the covenant chain, which defines our relationship with the Crown and the non-Mi'kmaw population of Canada. Our treaties are the instruments that define our relationship to the non-Mi'kmaw, and they protect our right to self-determination as a people within the United Kingdom. The treaty-making process was extended to other First Nations as settlements proceeded to the west. We view that as an extension of the covenant chain, each treaty a link in the relationship between the First Nations and the Crown.

The powers exercised by the Mi'kmaw nation as guaranteed in this Covenant Chain of Treaties were much more than what the successive generations of settlers would come to exercise in the colonies. As Mr. Christmas suggests, these settlers

... were still subject to the Colonial Office in Britain and had no recognized authority to manage even their own internal affairs. So, as a nation, it was logical that our relations would be with the Crown, since only the Crown had the authority to deal with foreign relations. Even with later events, Confederation in 1867, and the patriation of the Constitution in 1982, this difference between the two communities has remained and is critical to our understanding of our place in this country.

This is a crucial distinction in the eyes of the Mi'kmaw peoples according to Christmas when it comes to defining the social relations of Canada in terms of land. On the one hand you have what Mr. Christmas refers to as 'treaty federalism' between Indigenous, Dene, Inuit, Innu, and Métis nations and the Crown, and on the other you have the various acts of legislation outlined in the 1867 British North America Act that govern settlers in the system of responsible government settlers established in the colonies. These relationships, however, as Mr. Christmas reiterates, " ... have done nothing to change the distinct nature of our relationship with the Crown." This relationship with the Crown was affirmed once more in a series of subsequent treaties between the Mi'kmaw peoples and the British Crown from 1753 to 1794. According to Mr. Christmas,

This process of reaffirmation was critical to maintaining the people's right of consent and the basis of the treaties was peaceful coexistence and sharing for mutual benefit. They acknowledge that the Mi'kmaw as British subjects but also affirm our separate national identity within the United Kingdom. They affirm the Mi'kma'ki in Britain as two states sharing one crown. The crown pledging to preserve and defend Mi'kmaw rights against the settlers, as much as against foreign nations. Each community, the Mi'kmaw and the settlers, were to continue to function under their own distinct laws and customs. The Treaty itself provides the constitutional arrangement for managing this relationship and disputes between two autonomous peoples.

This series of treaties guaranteed a set of other promises as well, including the promise that the Mi'kmaw peoples could continue hunting and fishing unobstructed,

that they could bring their products to trade at markets free from taxation by other governments, and the provisions of social, economic, and other forms as assistance as needed. Mr. Christmas summarized Article 8 of the treaty governing the dual system of justice that was to regulate legal relations between the two nations. As he makes clear, “This called for a two legged justice system based on the concept of co-habitation. For incidents involving Mi’kmaw citizens on Mi’kmaw territory, our traditional justice would apply. For disputes between settlers the English justice system would be used. Finally, for matters that involved the two peoples, the English Civil justice system with input from the Mi’kmaw would come into play.” When it came to regulation of the social relations upon the lands the two nations now shared through treaty, the Mi’kmaw agreed not to disturb any existing British settlements in their territories, but they did not consent to any new settlements. As Mr. Christmas summarizes, the Royal Proclamation of 1763

... also consolidated past British policy concerning relations with the First Nations and the acquisition of Indian lands. The principle that Indian lands could only be surrendered to the Crown through consent at public meetings is consistent with the basis of the 1752 Treaty that the Crown was an intervenor to ensure that the Mi’kmaw rights were safeguarded from the self interest of the colonial settlers.

Despite all of this legal protection, the British Crown’s inability to enforce it proved to the Mi’kmaw that, in fact, the Crown was only interested in appeasing the interests of the colonial settlers. Mr. Christmas makes it clear that “Instead of sharing for mutual benefit, as we had originally agreed, local settlers and governments took the view that the only way for them to prosper was to try and ensure that we became and remained destitute.” The actions of the colonial settlers in the region “ ... meant that



for a number of generations there was little time for anything except day-to-day survival. Today's generations owes its existence to the resourcefulness and strength of our ancestors who struggled through those years driven by their will to survive and their hope that the future would bring better times and a recognition of their rights.”

Mr. Christmas proceeds to explain one of the most damaging instruments the Crown utilized to deprive the Mi'kmaw of an autonomous livelihood - section 91(24) of the 1867 British North America Act (1867 BNA). This piece of legislation was initially intended to act in a similar manner as the 1763 Royal Proclamation, according to Mr. Christmas, in that it “ ... should be viewed as an expression of the Federal Government's responsibility to protect our rights and interests, not as a license to destabilize our communities and interfere in our internal affairs.”

It was under the auspices of this section of the 1867 BNA that the Nova Scotia government undertook one of the most damaging and destabilizing colonial projects to which the Mi'kmaw peoples were ever subjected: centralization. According to Mr. Christmas,

Beginning in the 1940's we became the targets of a number of ill-fated social engineering experiments initiated by officials from the Indian Affairs Branch. One such experiment was "centralization" whereby Mi'kmaw were forced to leave their communities and their farms to take up residence at one of two reserves designated by Indian Affairs: Shubenacadie on the mainland, and Eskasoni on Cape Breton Island. The stated purpose of this exercise was to make it easier for bureaucrats to administer our people at two central locations. But the effect was to take more of our people off the land, deny them of their livelihood and force them to live on two overcrowded containment centres. Centralization was doomed to failure and it took a heavy toll before finally being abandoned in 1953. Over 1,000 Mi'kmaw were forcibly removed from their communities, losing farms, homes, schools and churches in the process.

Adding to this chaos was the concurrent introduction of yet another devastating Crown policy in the form of residential schools. “As in other areas of Canada,” explains Mr. Christmas, “this approach did not succeed, but it did serve to disorient and demoralize three generations of our people.” Somehow, despite these devastating policy approaches, the Mi’kmaw peoples persisted as a nation and continued to hold their rights to their lands and resources in common. The colonial policies emanating from the Canadian government toward the Mi’kmaw peoples continued throughout the twentieth century. After developing a residential school in Shubenacadie, Nova Scotia and then seeking to centralize the Mi’kmaw nation into only two communities and failing miserably, the Crown next sought to unilaterally create “... eleven separate Indian Act Band lists and the reserves were divided with each band to be dealt with as a separate individual entity. This was done without consultation and without consent, and we are still dealing with the legacy of this blunder today.” As in the past, the Mi’kmaw peoples adapted to this poorly designed and indeed illegal policy according to Canadian legislation and created a series of organizations and institutions “... whose mandate was to assist in bettering the situation of our people and to protect treaty and aboriginal rights, working closely with the Grand Council.”

The 1752 Treaty applies to any and all Mi’kmaw peoples in the Maritime region, but its terms have been consistently closed off by provincial and federal governments that imposed political boundaries and restrictions on the treaty’s application, most notably the Indian Act. To deal with this legislative quagmire, the Mi’kmaw nation has “... applied the principle that our treaty and aboriginal rights apply equally to all our

citizens, regardless of their place of residence or other governments' definitions." This situation has led the Union of Nova Scotia Indians to work closely with Mi'kmaw organizations and institutions both on and off reserve, a fact which has not been appreciated by successive settler governments. These governments "... have resorted to their traditional divide-and-conquer tactics as a response," says Mr. Christmas, but the Mi'kmaw peoples remain "... committed to maintaining the integrity of the Nation." Mr. Christmas informs the commissioners that these governments have consistently maintained that the Mi'kmaw nation extinguished their rights. This policy belief led to a series of court cases and one in particular, that of James Matthew Simon, who was originally convicted of illegal hunting or fishing under the provincial Nova Scotia Lands and Forests Act, made it all the way to the Supreme Court of Canada. The justices of the country's highest judiciary ruled in favour of Mr. Simon and declared the 1752 Treaty was still a living, valid document to be respected and upheld by the provincial and Canadian governments.

Once again, however, the Nova Scotia government and its colonists refused to recognize the treaty, despite its confirmation by the Supreme Court, and in the three years following the Simon case explains Mr. Christmas, "... 6 of our people were charged with fishing violations, 23 were charged with hunting deer and moose, and three were charged in connection with commerce and taxation, all of these matters clearly within the terms of the 1752 Treaty." The conflicts in the court system continued throughout the 1980s, but eventually, after yet another victory for Mi'kmaw fishers in the Supreme Court of Nova Scotia, the provincial government relented and

began negotiating with the Mi'kmaw peoples about regulating fish and wildlife resources according to the Mi'kmaw nation's own rule of law, which was separate and took priority over provincial and federal legislation. According to Mr. Christmas, "Based on the provisions of the 1752 Treaty, there is no opportunity for outside interference in our use and management of the resource, so the notion of co-management is unacceptable to us." Mr. Christmas sums up the discussion by stating that,

We see our right of self-government as an inherent right which does not come from other governments. It does not originate in our treaties. The right of self-government and self-determination comes from the Mi'kmaw people, themselves. It is through their authority that we govern. The treaties reflect the Crown's recognition that we were, and would remain, self-governing, but they did not create our nationhood. We have already outlined our vision of treaty federalism and the significance of our treaties in defining the relationship between the Mi'kmaw and the Crown. In this light, the treaties should be effective vehicles for the implementation of our constitutional protected right to exercise jurisdiction and authority as governments. Self-government can start with the process of interpreting and fully implementing the 1752 Treaty, to build on to it an understanding of the political relationship between the Mi'kmaw and the Crown.

This also goes for self-government over their lands as well, for even though there are many treaties within the Covenant Chain, none of them agree to the surrender of lands. It simply

... became more convenient for colonial and later provincial authorities to dispossess us without resorting to the treaty-making process as codified in the Royal Proclamation. This remains a fundamental violation of our rights which has yet to be settled. In 1977 we filed a claim with the Government of Canada in order to negotiate this matter. Their response was that although there was no specific piece of legislation or a treaty which extinguished our rights, nevertheless our title and rights had somehow been superseded by law. This remains their position to this day but is just as unacceptable to us now as it was then.

Although the Crown has been divided, states Mr. Christmas, “... into the Crown in right of Great Britain, the Crown in right of Canada, and the Crown in right of the provinces, this does nothing to lessen their collective obligations or the strength of our treaties.” Mr. Christmas believes that in order to fulfill their treaty obligations, the Crown may have to devise an institution outside of the realm of conventional party politics, which would be mandated to uphold the honour of the Crown by ensuring the Covenant Chain of Treaties agreed to with the Mi'kmaw peoples is upheld.

Commissioners concluded this round of testimony by thanking Mr. Christmas for his excellent presentation, but unfortunately they did not delve further into the issues through questioning.

**XXXV. Ernie Crey, Chief Ken Mallory, Tzeachten Band, Chief Clarence Pennier, Chairman, Stó:lō Nation, Lower Fraser Valley Fishing Authority.**

On June 3<sup>rd</sup>, 1993 representatives from the Lower Fraser Valley Fishing Authority (LFVFA) testified to commissioners and spent most of their time defending their practices against the claims made by the British Columbia Fisheries Survival Coalition, an organization that provided testimony which was narrated into a cultural story in the previous chapter. Ernie Crey, the fisheries manager for the LFVFA, begins the testimony by describing that his organization represents fishing families from all twenty eight bands within the Sawmill Creek region, which is within the Fraser Canyon at the mouth of the Fraser River. Collectively they harvest, according to Mr. Crey, about sixty percent of the salmon run throughout the Fraser River system. After providing this context, Mr. Crey discusses a column written by a journalist who suggested the racialized hysteria surrounding the implementation of an Indigenous commercial fishery reminds him of the

racialized hysteria evident during the internment of Japanese Canadians in the course of the Second World War. He is referring to the ‘misinformation, half-truths, and outright lies’ being spread by settler Canadian fisheries organizations about the harvest by the Indigenous nations along the Fraser River.

Mr. Crey will spend a great deal of time during his testimony defending the fishers he represents against the claims from the Survival Coalition, but he begins by first providing some context about the importance of the fish resource for the Stó:lō peoples. As Mr. Crey says, “... the great salmon populations of the Pacific watersheds were central to the spiritual, ceremonial, social and economic life of the many First Nations that flourished here.” According to Mr. Crey,

This was particularly true for the Stó:lō people, who made particular use of the salmon resource as a significant commodity in trade. The Stó:lō people undertook extensive fisheries on the Fraser River salmon, using a variety of elaborate technologies. Thousands of people engaged in these fisheries, governed by traditions, customs and laws, and cooperated in the substantial engineering efforts that were required to sustain our salmon-based economies. Throughout the fishing season, we turned our attention to fishing weirs, fences, wing-dams, box-traps, dipnet sites and drift-net fisheries. The careful management of salmon resources was entrusted to us by our Creator, and we took those responsibilities seriously. We still do.

Mr. Crey recounts how the trade flourished during colonial times and expanded when the Hudson’s Bay Company started operating in the region in the middle of the nineteenth century. Mr. Crey notes that this trading relationship was “... one of the few useful and productive aspects of contact with white people,” but it started to decline once the Canadian government at the time began the implementation of the first of many ‘regulatory assaults’ on the fisheries of the Indigenous peoples in the province. In Mr. Crey’s words, “Those regulations attempted to force the Stó:lō to fish for the canneries

only. It meant we had to obtain licences, and we had to come to the coast and ask the canneries for those licences, and to fish away from our homes.” The reason, in Mr. Crey’s testimony, was because the government was trying to promote via legislation big rig, coastal fishing as opposed to inland waters fishing practiced by the Stó:lō peoples for generations. The Fisheries Act was very effective in restructuring the fisheries in the province, for as Mr. Crey notes, “To this day, perhaps 25 per cent of the fishing effort and the production of the coastal canning industry originates with Indian labour. They fish under federal rules, like non-Natives.” Such a structure only benefits those with enough capital to realize incredible economies of scale, such as the Weston Corporation. According to Mr. Crey, corporations such as Weston harvest approximately fifty per cent of the Fraser River sockeye destined for commercial markets.

The 25 per cent participation rate in the fisheries is what many non-Ongwehon fishers point to as proof Indigenous peoples in British Columbia do not need authority over their own commercial fishery. Individual participation rates of twenty five per cent prove this type of integration works, but Mr. Crey makes a critical distinction in this participation rate and what the Stó:lō nation is seeking. In his words he states that,

As for the Stó:lō, we intend to fish as a nation of people, and we want our fisheries to provide benefits to us as a people and we want to fish in our territories. We don’t want to be offered any affirmative action program in fishing licences on the coast. We prefer to fish according to our rights, not according to permission from the fisheries department or the canneries.

Resistance to any policy other than this one earned the Stó:lō fishers the title of ‘poachers,’ according to Mr. Crey. Finally, by the time the Supreme Court ruled in favour of Indigenous fishers in the well-known Sparrow Supreme Court case, the west coast

fishery had been significantly depleted. Regardless, as Mr. Crey says, the Sparrow ruling forced the government to significantly alter their relationships with Indigenous fishers. The result was the policy known as the previously mentioned ‘Aboriginal Fishing Strategy,’ or the AFS for short.

Mr. Crey proceeds to talk about an advertisement produced by the British Columbia Fisheries Survival Coalition that suggests the AFS will require that the Canadian government turn over its regulatory responsibilities for the conservation of salmon stocks to ‘Native people,’ according to this advertisement. The same organization wrote another letter suggesting that no group has the right to extort another group for the right to fish, and yet one more in which it was suggested that Indigenous peoples would use the “... Sparrow decision to gain access to vast tracts of timber resources based on a ceremonial right to totem poles.” Mr. Crey responded to this comment, saying to the commissioners that “Well, it seems to me we’re going to have a lot of very busy carvers in British Columbia.” He attributes these comments to the general lack of awareness, or ignorance of people when it comes to the fishing rights of Indigenous peoples in the context of a largely treaty-less British Columbia. Despite the implementation of the AFS, Mr. Crey remains adamant that it is not perfect; in fact, it only contained three ‘pilot-sales’ agreements for the commercial sale of the harvest according to guidelines created by Indigenous communities in the region. Mr. Crey suggests that there have been difficulties with the way in which it was implemented as companies and union hardliners have been ‘dedicated to wrecking the strategy rather than making it work.’



Despite its implementation, the biggest question remains, according to Mr. Crey. This question has to do with the AFS's proposed strategy to reallocate commercial fishing licenses to Indigenous fishers. At the time of his presentation in 1993 the government had yet to allocate a percentage of the harvest specifically for Indigenous management and use. Mr. Crey describes one of the reasons why this process may have been proceeding so slowly and it relates to the response by non-Indigenous fishers who created a narrative of 'overfishing' by self-determining Indigenous fishers. This story was encountered in the cultural narratives of the BC Survival Coalition earlier in the analysis. As Mr. Crey sees it, Indigenous fishers were told over and over again that "... Indian overfishing caused a 'biological disaster' in 1992's Fraser sockeye fisheries. We were told for most of the last year that 1.2 million sockeye had entered Indian fisheries at Mission Bridge and had 'gone missing' before they reached the spawning grounds." A federally-led investigation by Dr. Peter Pearse, however, confirmed what Stó:lō fishers had been saying all along; that is, it was the coastal fishery operations from the United States and Canada with their massive harvesting capabilities that did considerable damage to the fish stocks in the early 1990s, not the inland fisheries. Regardless, as Mr. Crey confirms, this report did little to stop the Survival Coalition from continuing their stance that it was Indigenous fisher peoples who threatened the survival of the British Columbia fishing industry. In fact, Indigenous fishers have long suggested all fishing be moved back onto the rivers throughout the province where they would be less prone to overfishing.

Chief Mallory continues the LFVFA's testimony suggesting that whole ordeal has turned into a 'racial thing.' He tells the story of a protest by non-Indigenous BC fishers

who held a protest in 1992. The son of one of the fishers was sitting on his father's lap when the reporter asked him what he was doing at the protest. The son replied, "I'm protesting the Indians." When the reporter asked him about the Department of Fisheries and Oceans, the son replied, "Oh yeah. Yeah right. Them too." During the protest non-Indigenous fishers even claimed their roots in the land and waters of the region were the same as the Stó:lō fishers, but Chief Mallory puts that claim into perspective, noting that "... our people were fishing and living near Hatchet Rock 9,000 years ago. The Hudson Bay Company came here in 1827 and set up their fort." As far as Chief Mallory saw it, the original fisher peoples in British Columbia were being squeezed out of the industry "... because of big money." Chief Mallory then recounts a story of how in 1992 when the issue was gaining major media attention, journalists spent a great deal of time with Chief Mallory on land and out at sea and yet when it came time for the story on the news later that evening, his time was cut to a length considerably shorter than the airtime afforded the Survival Coalition. He concludes their testimony by lamenting how this imbalance is being reproduced by the time afforded the Survival Coalition for their RCAP testimony in comparison to the LJVFA's time with commissioners. The testimony then moves on to take questions from commissioners.

Commissioner Erasmus begins by asking the presenters what evidence they had proving Indigenous peoples in British Columbia were trading prior to contact with Europeans. Chief Mallory notes there is lots of evidence embedded in the landscape. Trails, for example, up and down the coast of the province and toward the interior of the country to Alberta demonstrated a wide-ranging trading network. As he says, "Well, the

people from the Shuswap will tell you that they traded with the people from Alberta.

They traded their salmon with people from Alberta. They traded their salmon with people from Alberta for buffalo meat and whatever else they had that the people in Kamloops didn't have." Chief Mallory also notes that the evidence of this great trading network can also be found in the oral stories of Indigenous peoples throughout the province.

Commissioner Erasmus then proceeds to ask for clarification on some of the accusations made by the Survival Coalition. Mr. Crey describes where the misunderstanding comes from. He suggests it is the result of the AFS which would see an allocation in 1993 of 100,000 salmon for the three commercial pilot projects Mr. Crey spoke about earlier. This was interpreted by the Survival Coalition as the government handing over the fishing industry to Indigenous peoples, a lie that Mr. Crey states was adopted and promulgated by the media and by those within the provincial and federal governments with no experience in the fishing industry whatsoever.

Chief Mallory clarifies Mr. Crey's comments by adding that "One of the things that I forgot to mention was the fact that the Survival Coalition says that we've got an unrestricted, unregulated wideopen fishery." He proceeds to explain that this is simply not the case. In fact, in signing the AFS agreement with the Department of Fisheries and Oceans (DFO) the Stó:lō fishers had to agree to fish counting devices in three different places. Furthermore,

When our fisheries and forest people go up the river, they talk to the fisherman and they ask how many fish did you get and they record it. When those fishermen land at their landing site, the fishing monitor asks them how many fish they got and they record it. And then those people will bring their fish to a designated mandatory landing site where those fish will be counted again for the fifth time. And then if that person chooses to sell his fish, those fish will be counted again on sales slips.

That makes the number of counts six, a high frequency to which no settler Canadian commercial or sport fishers are subjected. Despite such high counts, Mr. Crey suggests the Survival Coalition has been unrelenting in their threats to do damage and bodily harm to Indigenous fishers, even though the fishers who make up the coalition possess lucrative licenses for other types of fish, including halibut. The remainder of their testimony is spent explaining why there was less fish to harvest in 1992. Contrary to the Survival Coalition's claim, the missing fish was the result of coastal overfishing and inaccurate fish counting technologies that were subsequently replaced with more accurate technologies in 1993.

**XXXVI. Sharon Venne, on behalf of Chief Bernard Ominayak, Lubicon Cree**

Sharon Venne identifies herself as a Cree lawyer who for the past fifteen years has worked in what she calls the area of traditional Indian law. She is making a presentation on behalf of the Lubicon Cree's Chief Bernard Ominayak, who was busy with other work commitments at the time of the RCAP proceedings. She begins her presentation by providing the historical context that has led to the Lubicon's participation in the commission hearings that day. She recounts for the commissioners how the Lubicon nation has never signed a treaty because treaty commissioners traveling through the territories negotiating Treaty 8 in 1899 missed the Lubicon Cree. Thus the Lubicon peoples have never entered a treaty, nor have they ever surrendered or extinguished title to their lands. Companies and governments ignored this fact all century and began oil and gas development on Lubicon lands intensely in the 1970s for their own capitalist needs and to the detriment of the Lubicon Cree's mode of

production based on hunting and trapping. Ms. Venne is appearing before the commission to tell the story of what the Lubicon peoples have lost because of the unfettered development of the capitalist mode of production in their territories.

Ms. Venne informs the commissioners that until 1978-79 the community remained quite isolated, autonomous, and independent. In that year all this changed as oil companies built an all-weather road to the Lubicon people's community at Little Buffalo, in the northwestern part of Alberta. Shortly thereafter there were approximately four hundred oil wells developed on Lubicon land. This development threatened the Lubicon way of life which, up until that time, had been based on production from the land. But over the course of four years the Lubicon "... went from sustaining themselves to the welfare rolls." Ms. Venne goes on to provide some startling data, stating that "In 1979 when the Lubicon first began administering their own welfare, there were less than 10 per cent of the population on welfare. By 1983, the percentage of persons on welfare in the community was at 95%. In four short years, the Lubicon moved from a traditional economy to a welfare economy." Ms. Venne provides the commissioners with statistics that demonstrate the affect oil development has had on the Lubicon's harvest of moose, as it went from a high of 219 moose hunted in 1978-80 to about 19 per year since 1984. Oil production exists in a relationship of negative correlation with moose production, for as the oil production has increased, moose harvests have markedly declined by ninety per cent over the course of four years.

This decline was directly related to the oil exploration and in particular the fires this exploration caused during production. Ms. Venne notes that in 1983 alone over two hundred and fifty square kilometers of traditional Lubicon Cree territory was consumed in fires started by the oil exploration operations. Trappers continued to trap and took on more debt in order to continue this mode of production made more difficult to sustain by the oil companies that were making over \$500 million a year in profits on the Lubicon people's lands while the Lubicon were forced to turn to welfare to survive the industrial genocide. Unbelievably, the governments then used their use of welfare against the Lubicon peoples in the court system. Ms. Venne explains,

The lawyers for the provincial government argued that the Lubicon Cree had given up their traditional way of life. Therefore, [they] had lost their claim to their traditional lands. For the Lubicon Cree Nation, it is Catch-22. The oil exploration had devastated their traditional lands forcing them to welfare.

The Canadian court system was to provide no way out for the Lubicon peoples. As Ms. Venne explains,

For 15 long years, the Lubicon Cree tried to use the legal system of Canada to prove their case. They were up against lawyers working for the governments which had unlimited resources to fight the Lubicon. The Lubicon were appearing before judges who either worked for oil companies before being appointed or before judges who had partners who worked for oil companies, or judges who had friends amongst the oil companies' board of directors. This is very evident when you consider the number of judges upon retirement who end up on the boards of the oil companies. Justice is not only blind but compromised.

Not surprisingly, given the rampant injustice evident in the disruption to the Lubicon people's relationships with their lands and the crisis it created, the government turned to the instrument it seemingly naturally favours in such a situation – the commission of inquiry. Former Member of Parliament and retired judge E. Davie

Fulton presided over the inquiry looking into the Lubicon people's experiences with settler Canada. After nine months he concluded the Lubicon's rights were being abused, upon which the "... Province of Alberta responded by refusing to talk to him. The federal government responded by terminating his inquiry. In other words, Fulton was fired for looking and reporting his findings." As October 1988 came and went, it was clear the justice system was not going to help resolve the situation. This compelled the Lubicon people to take their case to an international court, the United Nations Human Rights Committee (UNHRC) in Geneva, Switzerland, which promptly accepted to hear the case.

UNHRC immediately filed an order against the government of Canada that called on the government to prevent further development in the Lubicon nation's territories until it had fully considered the situation. "Needless to add," stated Ms. Venne, "Canada did not obey the order." In fact they actually told the Canadian people the UNHRC did not accept the Lubicon's case, even though, as Ms. Venne explains,

If this is the case, why did the Committee of Human Rights appoint a special rapporteur to report to the Committee on the continued violations of the Lubicon people by the State of Canada? Would the Human Rights Committee go to such lengths, if there was no substance? We think not.

In the fall of 1988, the Lubicon peoples resorted to direct action to try and reclaim control over their traditional territories. Ms. Venne explains that during this time period

... the Lubicon set up a passport control system to protect their traditional territory. It was a legitimate assertion of their jurisdiction. The Lubicons never entered into treaty. They have never surrendered title to their traditional lands and resources. The response of the Government of Canada to the assertion of their rights was met with dozens of heavily armed Royal Canadian Mounted Police being sent into the

Lubicon's traditional territory. There were helicopters flying overhead. The police were armed with assault rifles and other arms. The police had attack dogs. They moved in and took down the passport control posts.

The result of setting up the posts, however, according to Ms. Venne, was a meeting between the Premier of Alberta at the time, Don Getty, and Lubicon Chief Bernard Ominayak. From that meeting came the Grimshaw Agreement.

As the Lubicon saw things the Grimshaw Agreement was yet another 'take it or leave it' offer from the government - the only kind of offer the government knew how to present. Ms. Venne notes that at the time of her presentation to the commission, a committee had been struck by the Alberta New Democratic Party " ... to review all the offers and counteroffers before the Lubicon to determine if the offers are fair and just. These 12 individuals come from all walks of life. The provincial and federal governments have yet to agree to appear before and present their case to these people. The Lubicon peoples have presented their case." The Lubicon case, as Ms. Venne sees it, is an example of why settling land disputes must be taken out of the hands of the governments, for as she says, "It is totally inappropriate for the Government of Canada and the provinces to license various companies and corporations and to receive revenues from companies on one hand and on the other hand negotiate land and resource settlements with the indigenous peoples." While the Lubicon continue to seek some sort of justice from the provincial and federal governments, their traditional territories are persistently developed, interfering deeply with what remains of their way of life in the bush. Ms. Venne concludes her testimony by summarizing the situation in this way,

The Government of Canada's continual refusal to settle the Lubicon case is one simply based upon racism. The State of Canada cannot accept that indigenous



peoples could and do have superior title to their lands and resources which exceeds any rights asserted by the colonial Government of Canada.

Commissioner Blakeney responds first and asks about the current state of things, to which Ms. Venne replies that the Lubicon people have presented an offer, but the Canadian government continues to stick to its take-it-or-leave-it offer. This offer is unacceptable to the Lubicon people on account of the low dollar figure it presented but also due to a number of conditions it placed on the Lubicon Cree's ability to exercise self-government and self-determination on their lands. Mr. Blakeney confirms the situation to himself, "So, currently, there is just a standoff? We have a Lubicon claim, a federal government counteroffer which is unacceptable and one way or another has been rejected by the Lubicon, I don't know whether formally or now, and that's where it stands?" Ms. Venne confirms his understanding, saying "Yes. Basically what happened is when the federal government said take it or leave it, the Lubicon left and said thank you very much and that was it." In response to Mr. Blakeney's probing into exactly what kind of compensation the Lubicon are seeking, Ms. Venne replies that as far as the Lubicon peoples see things,

I think the bottom line from the Lubicon's point of view is that they don't want to settle the claim just to live on welfare. They don't find it appropriate that the government would want to see them spend not only this generation, but the future generations living in a welfare economy. They want to be able to go back to sustaining themselves, as they had always sustained themselves until very recently. We are not talking about a community that has been on welfare for a very long period of time. They know - they can remember and they know what it's like to not have to be in that situation and that's what they would like to return to. The way things are going right now is that the federal government is continually pushing on them the welfare mentality, refusing to give them adequate compensation.

Mr. Blakeney concludes his line of questioning by determining the state of timber in the Lubicon's territories, noting to himself, after asking Ms. Venne a question about it, that

... none of the traditional lands have been logged, but they have been licensed out to be logged. So, they have gone over the top of the Lubicon and given licenses without the consent of the Lubicon people, but there is no logging that is presently occurring in the Lubicon area. There was a small area that was logged in the northern part of the territory. It was clear-cut logging, but that was stopped in the fall of 1990.

Commissioner Chartrand continues to question Ms. Venne about the resource extraction within the Lubicon people's traditional territories. He notes that the Lubicon situation is somewhat typical of the problems created when large corporations

... appropriate the resources of lands that aboriginal people have been living on forever for these purposes and make huge profits from them. I suppose by some process of reasoning that I ignore, explain this as having to do with the promotion of the common good, but given the facts that you relate here, it is manifestly very difficult to explain to the people who are dispossessed that this is indeed for the common good of anybody.

The Lubicon people's experiences with industrial development illustrate, in Ms. Venne's words,

... what has happened and what is happening in an area which is not covered by treaty. I have brought it to the attention of other people that when you don't have a treaty and you don't have your land base secure, the people are really at the mercy at the whims of people that have no interest or knowledge of who they are affecting and they make the policies and they develop ideas and they don't know at the other end of the tube there is somebody there, trying to live there. When it is brought to their attention, they act indignant.

Ms. Venne notes that unfortunately the Lubicon peoples are an example of those who begin by believing there is justice in Canada, but come to understand no such thing exists. Nor is such a thing seemingly possible given the contradiction she identified earlier with governments settling land claims on the one hand while doling out licenses for oil drilling

on the same land on the other. She concludes her testimony by asking the commissioners to visit Little Buffalo to see how people are still able to laugh despite this treatment, and reminds the commissioners that the Lubicon peoples “... are just talking about trying to live like everybody else and that’s being denied to them.”

**XXXVII. Peter Penashue, President, Innu Nation**

Mr. Penashue starts his testimony by letting the commissioners know a bit about the history that led him to become president of the Innu Nation. According to Mr. Penashue, “I’ve been involved with the Innu people in the different struggles since I was about 16 years old, and I have been president of the Innu Nation for the last two years. I had set out to make some changes in people’s lives when I got involved as president of the Innu Nation, but in the last two years, David was with us then, and David was vice-president, and we found it very difficult to make real changes on the community level in people’s lives.” Things at the community level have been resistant to change because the government is telling Innu leaders that, with respect to governmental assistance for benefits and programs, the Innu peoples “...because we didn’t fit neatly into this category of the Indian Act, and weren’t on a reservation, we couldn’t apply for this.” President Penashue argued in response to a government official, Don Ferguson, that, despite their status (or lack thereof), they have been using “... different programs they’ve already put forward to the Innu people, such as non-insured health benefits, post-secondary education, band council funding, and without registration under the Indian Act nor a reservation.” The response from the official was that these were all technically illegal

given the Innu nation's status. The message received, according to Mr. Penashue, was that he better stop talking about these things or else they would likely be cut in the future.

The uncertainty in their status has been exploited by governments and corporations, according to President Penashue. He feels they do not fall neatly under section 91(24) of the British North America Act that created a fiduciary responsibility to Indigenous, Innu, and Inuit peoples (the Métis were fighting to be recognized under 91(24) during the Charlottetown Accord negotiations prior to RCAP that ultimately failed). Mr. Penashue lays out the Innu people's basic argument, which

... is that we have national rights which have never been extinguished, we have a land base that's never been extinguished, and there's no treaties here in Labrador. And because of all that, all the revenue and the royalties go out to the provinces or the federal government or the companies. Other people are making benefits from our resources. There's a radar site here at Big Bay, I understand. There's no royalties paid to the Innu people in Davis Inlet. There's been all kinds of forestry developments around the area of Goose Bay, there's no royalties paid to the Innu people. There's a hydro development that took place in the 1960s, flooded the lands, flooded graveyards, no apology was ever forthcoming, no compensation. As a matter of fact, as you are aware, we took out the meters and said we wouldn't pay.

All of this development affected the Innu after they had already been relocated to Davis Inlet in 1967, having been previously relocated to a place called Nutauk in the 1930s under the pretense of better housing. The relocation led to serious and fatal social problems within the Innu communities in Labrador. Mr. Penashue says the Innu are seeking an apology and compensation, but the federal and Newfoundland provincial governments ignored them on this matter and say that Innu lands belong to them and the relocations were necessary. Mr. Penashue believes this is not how the government actually feels, for if it were then why would they be sitting down at the negotiating table with the Innu talking treaties? Mr. Penashue believes the government realizes “... they're

going to have to deal with it either now or they're going to deal with it later. And they realize, in my opinion, that they don't have a clear title to the land.” Mr. Penashue reminds the commissioners about the significant amount of royalties already funnelled out of Innu territories, but when they go talk to government officials to look for money for a treatment centre in Sheshatshiu, for instance, and are told they do not fit the category necessary for funding, frustration and anger are inevitable. When they press for a resolution the Innu have been told time after time,

...let's have studies. People here have been saying, you know, they've been saying we're studied to death. And it was really something, in the report of the Royal Commission - not Royal Commission, in the infrastructure study to look into the relocation, the provincial government very carefully crossed out the words "studied to death," and they replaced it with "extensive studies done," because they don't want to read about it in their own studies. And this was a quote that was made by Terpstra Engineering, who did the study.

Mr. Penashue is adamant that nothing will change until the Innu exercise control over policy “ ... because all you do is accept the delegated authority from the federal or the provincial governments and all you do is run their programs and services. There's no real change.” Mr. Penashue tells the commissioners that the Innu people do not consider themselves subordinate to either the federal or provincial governments. In terms of justice, however, Mr. Penashue explains that this is how they are treated.

The Innu were thrown into this system and subsequent relations with the land after living a nomadic lifestyle since time immemorial. Mr. Penashue recounts for the commissioners that his own parents were the first to make the transition from a nomadic way of life to living in a settled community. Once settled, people like Mr. Penashue's father were sent to Mount Cashel, a residential school, and as a result, according to Mr.

Peneshue, his father succumbed to alcoholism. This disease is the consequence of policies which disrupt a people's relations with their lands and take away their independence.

Then what you have is

... independent people who make all the decisions for life suddenly plunked into a community, and everything else is designed and segmented in their lives. For example, when you're hungry, you go to Social Services. When you have problems with family issues, you go to Social Services or the RCMP. People start changing you up here, and that's what they refer to as colonialist mentality, because people start changing in their minds about how to approach things. They must change things and start looking in the way of setting up a process where Aboriginal people will be a third order of government, meaning that they would have their own authority to set laws, regulations, what have you, for their own people. We don't want to make laws for people in St. John's, because we don't know what their culture and lifestyle is. The same way should apply. St. John's should not make laws for our people, because they have no idea who we are.

Mr. Penashue says in another round of testimony he provided to the commission that such drastic change in control over their own lives did not result from initial contact between the Innu and Europeans because their early social relationships were premised on isolated trading posts that stayed in one place and allowed the Innu to come to them when they wanted to trade in furs. The big change in terms of ending the Innu's nomadic life on the land came, according to Mr. Penasue, around the 1940s when a radar base was built in their territories and

... then later on we had our lands and our territory brought into the Canadian Confederation without our consent. First, in 1927, the Innu territory was split in two. Part of it became Quebec, the other one became the colony of Newfoundland, which is what's known as Labrador. In 1949, as I've mentioned, we were brought into Canada and when we were brought into Canada in 1949, not only that our lands and the rest of our property were brought in, but we were brought in as Newfoundlanders. And that policy still remains today in the Newfoundland government. In the eyes of the Newfoundland government, we are considered citizens of Newfoundland.

Mr. Penashue believes the Newfoundland government has interfered with the fiduciary relationship between the Canadian government and the Innu governed by 91(24) of the BNA 1867 by acting as the funding provider to the Innu. Rather than providing funding directly to the Innu the federal government routes it first through the Newfoundland provincial government, a process Mr. Penashue disagrees with. He also disagrees with the framework negotiations that are ongoing in relation to the Innu people's discussions over their traditional territories. This is a process, according to Mr. Penashue, in which the purpose is to "... set out the agenda and the timeframes and the process for the actual substantive negotiations. We've been in the process for a year now and it's been difficult. It hasn't been easy because there are certain things that the governments don't want to talk about." Mr. Penashue is calling for a moratorium on development until the land claim is settled. Such a moratorium is necessary because, in Mr. Penashue's words, "... you cannot negotiate on one hand and continue to develop the resources on the other, because we find ourselves at the end that there is nothing left for us." Yet, resolving the relations over the land will not be easy for there is no uniform position on the Innu side. As Mr. Penashue puts it,

I myself sometimes find myself in a strange position because there are people in this room who do not agree with the land claims process and there are those who aren't sure what to think. The way I look at it, if we do not enter into this process, then Canada will take the resources and all other rights as well and that has been my argument to my people. We have to take the existing process and hope that with the new constitutional process that's taking place and the new Royal Commission that hopefully a new process will come forward as such the one that we see emerging now with the third order of government.

Mr. Penashue feels that self-government is the only way to resolve the social problems found in Innu communities in both Labrador and Québec, problems that are

the consequence of a generation of colonial policies. Upon concluding his testimony, Commissioner Dussault asks Mr. Penashue what self-government looks like to the Innu, to which Mr. Penashue responds,

... in general the needs and their preference in how they see self-government is different. And that is why I think it's important that it doesn't get defined but it be left up to those nations and governments to work out an agreement and to negotiate those details amongst themselves, because, as I said, we may not want what they have on the other side of the country because they may have different needs.

Mr. Penashue concludes his testimony by asking the commissioners to look into the issue of differential funding for Indigenous, Innu, Inuit, Dene, Gwich'in, and Métis peoples and how this issue often leads to a disadvantage for Innu communities because they do not fall under the Indian Act, live on reserves, or are governed according to treaty relationships. He leaves them with this parting comment,

I think it's important that the Commission is aware that for many years when we fought against low-level flying, fought against development, we were always told that the Innu don't want to negotiate. The Innu just want to disrupt development. Now we find ourselves that the federal and provincial government doesn't want to negotiate. They have suspended the negotiations because they cannot get an agreement among themselves. I wanted to point that out so it was clear that we are still willing to negotiate, but they have to get their act together.

The morals of these counter stories which connect all of these narratives is the desire of Indigenous nations to uphold their diverse treaty and inherent rights to the lands and resources of Turtle Island and the consequences when they are not able to do so according to their own will. The morals of the narratives do not speak of rights to the land as a 'race' of people beholden to the tenets of the Indian Act. Instead they speak to the inherent and treaty rights of Indigenous peoples as nations seeking collective control over their lands and resources for the purposes of securing self-



determination and self-government. The consequences of denying these rights are tragically fatal for Indigenous peoples in many cases and demonstrate quite profoundly a stark contrast between the reality painted by the equality of rights language in the cultural narratives and the realities of settler colonial relations which are endemic to North American settler societies (Brayboy 2005:429). As discussed in the concluding chapters, the responses by Indigenous peoples in the testimonies to these consequences provide the inspiration for alternatives to SCRs. The way in which these narratives detail the consequences of and alternatives to SCRs linking the private storyteller to the wider social relations they inhabit is the primary reason why the narratives analyzed in this chapter are considered counter stories in the settler context.

## **Chapter 6 – Comparing the morals of the stories**

After spending the last two chapters dialogically narrating bundles of counter and culture stories for the purposes of theory building as per Brayboy (2005), this chapter compares the morals discerned from this preceding work. It does so in order to highlight the way cultural narratives looked at in this dissertation rely on the liberal order idea of equality under one rule of law and how such narratives erase the existence of settler colonial relations, thereby concealing the patriarchy, racism, and private property integral to these relations. The counter stories contradict these narratives, illuminating the consequences and alternatives to settler colonial relations. Comparing these narratives develops some theoretical sense of the nature of land use within settler Canada (Nandorfy 2011). The following chapter will begin by explaining what is meant in a sociological sense by the moral of a story, and why story morals in the context of settler colonial relations are sociologically relevant for understanding the nature of land use in settler Canada. This chapter will then proceed to compare the morals of the counter stories with the morals of the cultural stories and demonstrate how the morals of the counter stories contradict the morals of the cultural narratives in the way they repeatedly reveal the way the language of equal rights effaces the existence of inherent and treaty rights. Such a comparison highlights how counter narratives about land use connect to the broader settler colonial relations by highlighting the role of inherent and treaty rights in the national identities of Indigenous peoples whereas cultural narratives make no mention of SCRs at all and instead depict Indigenous peoples as ‘races’ with the same rights under one rule of law as all of the other ‘races’ in Canada.

### **XXXVIII. The sociology of story morals**

According to sociological scholars of narrative, each narrative or story ultimately has a moral, or what some narrative scholars refer to as the ‘point of the story’ (White 1987, as cited in Ewick et al. 2003:1341). When we are talking about the morals of stories in a sociological sense, many theorists explain that the moral is an integral component of any story. Ewick et al. (1995:198), for instance, explain that all stories are essentially “... language organized temporally to report a moral,” which, in turn, “... reflects and sustains institutional and cultural arrangements at the same time as it accomplishes social action.” In other words, the morals of stories may have material consequences. In their later work, Ewick et al. (2003) explain how the moral is the third necessary part of narrative as a means of communication. The first part is based on the fact that narrative makes some sort of selective use of historical events and characters. The second part is that the events described in the story must be temporally ordered. The third and final part is that “... the events and characters must be related to one another and to some overarching structure, often to an opposition or struggle. This feature of narrative has been variously referred to as the ‘relationality of parts’ or, simply, ‘emplotment’” (Ewick et al. 2003:1341). This feature is important because it provide stories with ‘narrative closure’ and ‘narrative causality.’ Together, these two facets of narrative demand a ‘moral meaning,’ or “... a moral principle in light of which the sequence of events can be evaluated – or what we call, colloquially, ‘the point of the story’ (Ewick et al. 2003:1341; White 1987), or what Polletta, Chen, Ching, Gardner, and Motes (2011:119) refer to as the ‘moral conclusion’ of the narrative. My analysis consisted of focusing on this moral

meaning in the narratives for theory building purposes. The points of each of the preceding narratives serve as the primary focus of discussion in the following two chapters.

**XXXIX. The moral of the counter stories – inherent and treaty, not equal rights**

Noted Indigenous lawyer and academic John Burrows discussed during his testimony how the stories of Indigenous peoples and their land use are closely aligned with what are referred to as their inherent rights, or what are also referred to as ‘Aboriginal Title’ or ‘Aboriginal Rights.’ These narratives are bestowed upon people by the Creator as a means of “... acquiring knowledge and codes of behavior” (Archibald 2008:11). Inherent rights exist, therefore, by virtue of the fact that Indigenous peoples are the original occupants of Turtle Island and have responsibilities to the lands of Turtle Island bestowed upon them by the Creator. Such rights are not given to Indigenous peoples as representatives from Treaty 4 reminded the commissioners. In fact, as the representatives from Treaty 6 reminded commissioners, the treaty they agreed to with the Canadian state recognized and affirmed the representatives’ inherent government and laws. As the representatives told the commissioners, “Treaty 6 First Nations are founded upon principles that recognize the supremacy of the Creator, the sacredness of the pipestem and the oral traditions of our elders who have passed on our laws from generation to generation.” Treaty 8 representatives talked about how the treaty making processes affirmed the national status of the Treaty 8 nations and recognized their inherent right to self-government and how these processes are “... part of the execution of Treaty 8 between between our Nations and the Crown in right of Canada provide the sole

legitimate framework” for nation-to-nation social relations. Those who testified from the Stó:lō nation in British Columbia similarly noted how their authority to run a commercial fishery independent of the one established by settler Canadian governments and fishing corporations originates in the nation’s relationship to the Creator. As the representatives from the Stó:lō nation described this relationship, “The careful management of salmon resources was entrusted to us by our Creator, and we took those responsibilities seriously. We still do.” Representatives testifying to RCAP from the Algonquin nation testified to the fact that both inherent Indigenous rights and wampum-based treaty rights are “... collective pre-existing rights given by the Creator. They cannot be taken away or altered by any government – imperial, federal, or provincial.... It is these rights that make us distinct from other Quebecers and Canadians.” For the nations of the Haudenosaunee Confederacy, the Great Law of Peace is the foundation for their inherent rights, and this law according to the Myiow father and son combination who testified to RCAP stated that this law comes from the Creator. The Creator sent this law to the Haudenosaunee peoples via the Peacemaker who travelled throughout the Haudenosaunee territories bringing this message of peace to the people. Later on, the Two Row Wampum treaty, or Gaswentah, would govern social relations between the Haudenosaunee Confederacy and other nations, including Europeans, but the Two Row is based on the principles flowing from the Creator’s gift to the people, the Great Law of Peace. This gift serves as the basis for the Haudenosaunee Confederacy’s clan responsibilities, as the relationships and responsibilities originating within the clan system “... are reciprocally connected to the land and emanate outward to incorporate the reciprocal relationships and responsibilities

of the Haudenosaunee to each other” (McCarthy 2010:85). As Treaty 6 representatives suggest in summary of all of these notions, “In our way, collective rights always take priority over individual rights.”

The Union of Nova Scotia Mi’kmaw interpreted the Mi’kmaw nation’s inherent rights as not necessarily originating in other governments or the Peace and Friendship Treaties. Christmas tells the commissioners that instead the Mi’kmaw nation’s inherent right to self-government and self-determination comes from the Mi’kmaw people. “It is through their authority that we govern,” commented Mr. Christmas. Treaty 4 representatives speak to a similar idea in the sense that inherent rights to land, self-determination, and self-government do not come or are not granted by any individual or institution. As these representatives remind the commissioners, “What we are trying to say is that whenever we talk about the kinds of inherent rights, it is not for anybody to give it to us, those are inherent. It is not for anybody – we don’t have to get it from anybody.” These counter narratives from the RCAP testimonies bear witness to the way in which land use patterns in settler Canada must be considered in the context of the diverse array of inherent and treaty rights of Indigenous peoples across the country, continent, and beyond, and they demonstrate how in the case of Indigenous peoples these rights come from a national identity that is rooted in spiritual responsibilities to people, to land, and to the Creator and is either in a treaty relationship with the nation of Canada or is not in such a relationship.

When treaty and inherent rights in terms of land use are ignored in favour of the often repeated phrase ‘equal rights’ in the cultural narratives the consequences for Indigenous peoples are as grave as the counter narratives vividly describe. Sharon Venne testified

about the shift to welfare the Lubicon Cree experienced after the development of their unprotected traditional territories. As Venne told the commissioners, “I have brought it to the attention of other people that when you don't have a treaty and you don't have your land base secure, the people are really at the mercy at the whims of people that have no interest or knowledge of who they are affecting.” When the Lubicon Cree protested this lack of recognition of their inherent rights and the subsequent failure to agree to a treaty the Canadian government dispatched the RCMP to disrupt the protest. The development of private property led to similar consequences in terms of environmental destruction for other Indigenous nations, and this destruction disrupted collective ways of living that do not depend on the individualized private property inherent to the capitalist mode of production. Capitalist development destroyed the environment Indigenous nations depend on for their economies and in the process siphoned the profits made from resources on the lands and in the waters that belongs to Indigenous nations.

Peter Penashue similarly spoke of the consequences of land use in settler Canada in which inherent rights are not honoured or buffeted by treaties. For the people of the Innu nation this lack of honour has led to the siphoning of resources and royalties from the territories of the nation and into the pockets of the government and corporations. In terms of power relations on the land, the picture Mr. Penashue is starkly asymmetrical. As he says,

Other people are making benefits from our resources. There's a radar site here at Big Bay, I understand. There's no royalties paid to the Innu people in Davis Inlet. There's been all kinds of forestry developments around the area of Goose Bay, there's no royalties paid to the Innu people. There's a hydro development that took place in the 1960s, flooded the lands, flooded graveyards, no apology was ever forthcoming, no compensation.

Mr. Penashue is adamant that without some sort of commitment from the Canadian government, in the form of a treaty or otherwise, the government will continue to siphon value from Innu territories without proper consultation, let alone proper compensation.

The lack of legal protection of Indigenous lands, waters, and resources is another consequence of settler colonial relations that commonly appeared in the morals of the counter stories. Canadian government legislation such as the Indian Act sought to dismantle governance systems in Indigenous communities and supplant them with systems premised on the Indian Act that were racist and sexist and made it easier for the fatal relocations, removals, and dispossessions of land that have defined relations between settler Canada and Indigenous nations since the beginning of the country in 1867. These relocations and dispossessions led to disease and starvation in Indigenous communities throughout Canada and when considered in relation to the forced creation of reserves, residential schools, and the disproportionate amounts of violence experienced by Indigenous women all constitute what many scholars and RCAP testifiers identified as attempted genocide. Efforts to resist this genocide some scholars believe is endemic to settler colonial relations (McVeigh 2008) has been met by settler Canada with the construction of negative identities for Indigenous peoples through racist and sexist language, violent police raids and jail time for defending their land, and one royal commission after another collecting information that has a greater chance of being used to control as opposed to cooperate with Indigenous cultures, nations, and peoples.

The counter narratives are considered counter in nature because they connect to the broader settler colonial relations the storytellers are embedded in as they contain the



blueprints for alternative, decolonizing social relations through their discussion of inherent and treaty rights. This is not to suggest that these are the only blueprints for the necessary work of decolonization, but only a contribution to such work. Treaty rights derive from the inherent rights described in the above story work and they serve to define the boundaries for nation-to-nation social relations in a settler context. Alex Christmas says that the treaties agreed to between the British Crown and the Mi'kmaw nation, for example, "... define the relationship between nations." The Peace and Friendship Treaties provide the "... constitutional arrangement for managing this relationship and disputes between two autonomous peoples." Where treaties exist, and they do across a vast expanse of land throughout settler Canada, it is imperative that settler Canadian governments and their citizens honour their side of the treaty relation because failure to do so in the past has led to the consequences reviewed in the work above. Counter narratives proved this fact but they also provide a sense of the steps settler Canada can take to become a more effective treaty partner to all of the Indigenous nations it has entered into treaty with throughout history, but it will require a different approach in each area. That is because each treaty area is different according to the terms of the treaty holding sway on the land in a specific region. Brownlie (2009:313) comments on the underlying diversity in the land use patterns of Indigenous nations that define these treaty regions, saying

Although successive federal government throughout most of the nineteenth century and twentieth centuries persuaded First Nations groups to part with enormous quantities of reserve land via surrenders, they were unable to abolish the actual institution of the non-taxable, collectively held Indian reserve. Yet Indian reserves should not be confused with Indigenous property regimes. The latter varied a good deal from one group to another,

from systems of substantial chiefly authority over land on the west coast to strongly egalitarian models in the subarctic and the eastern woodlands.... Thus, while there were elements of collectiveness in Aboriginal approaches to territory, their Indigenous systems had little in common with the colonial reserve system.

Despite this diversity in terms of land use, some common themes emerged from the counter stories and these themes provide the blueprints for decolonizing settler Canada through the treaties built on top of these land use systems. Settler Canada must come to terms with the idea of collective rights as its failure to do so has jeopardized the health and well-being of the Indigenous communities that were represented in this study of RCAP testimonies. This failure to respect the collective rights of Indigenous nations was all too clear in the counter narratives in the obvious way that settler Canadian governments were in a conflict of interest with some of the Indigenous nations representatives testified on behalf of during RCAP because of these governments' role in capitalist economic development. Representatives from both the Lubicon Cree and Innu nations spoke of this conflict in regards to land use. It is not fair to Indigenous nations that the settler Canadian state issues licences to resource and mining companies on the one hand while settling land claims on the other. This is why so many testifiers spoke of the need for moratoriums on development until the land claim issue has been resolved – a familiar refrain today as well.

Other counter stories spoke of the need for a sort of treaty tribunal with representatives from all nations impacted by a treaty on the tribunal to ensure enforcement of the treaty through mechanisms of which all of the treaty partners consent. A tribunal such as this may be able to more fairly gauge the impact of any proposed development in treaty

territories – as opposed to leaving the decision making to the settler Canadian state. This would avoid any conflict of interest as the licencing could still be done either by the settler state or Indigenous nations while the settlement of the land issue would be done by the tribunal and the tribunal only. This tribunal would be supported with some sort of process of review on a nation-to-nation basis that allows for an ongoing, detailed re-examination of government legislation vis-à-vis treaties (or inherent rights in lieu of an absence of treaty), as well providing funding to research land claims while ensuring that each nation's approval with the treaty relationship is respected and honoured on a day-to-day basis. As a Treaty 8 representative reminded RCAP commissioners, “ ... in our treaty area in particular, we have no such mechanism available which we could discuss our concerns with the federal government or any other government.”

The best thing settler Canada can do when it comes to building alternatives to the reproduction of settler colonial relations is listen to the concerns of Indigenous women and actually do something about their concerns. A liberal order framework premised on individual ownership of private property and a nation state-protected rule of law has done considerable damage to Indigenous women in the past and the legacy of this damage lingers in contemporary social relations (Weaver 2009; Martin-Hill 2004). This framework has displaced Indigenous women from their economic relationships with the land and in the process disrupted their place within the political systems of Indigenous nations where they formerly exercised power on par with Indigenous men. The result of this displacement and disruption as the counter narratives make clear is a system of social relations in which colonialism is endemic, and as a result so too is capitalism, patriarchy,

and racism. Because of the endemic nature of colonialism in settler Canada a disproportionate number of Indigenous women experience violence, poverty, and political marginalization that works to silence their concerns, input, and ideas in a way they never were before colonialism took root in the lands of Turtle Island. Building alternatives to these colonial social relations will require the input of Indigenous women to ensure the project of decolonizing settler Canada does not reproduce the same social relations that led to the country's colonization in the first place. The only way to guarantee this does not happen is to make certain that Indigenous women are represented in processes such as treaty tribunals - or indeed in any discussions over treaty and inherent rights in terms of land use - in order to ensure they take part in the creation of blueprints to decolonize Canada.

#### **XL. The moral of the cultural stories – equal, not inherent or treaty rights**

The equality of rights doctrine that is so integral to the liberal order framework that conditions social relations with the lands, peoples, and nations of Canada (McKay 2009:418; Brownlie 2009:309, 315-316), and which is so crucial to the project of multiculturalism that has fashioned a more politically acceptable white supremacy since its inception as government policy (Thobani 2007:148), is a prominent theme in the morals of the cultural stories about the social relations with the lands of Canada collected during the course of this study. Mr. Neale from the Nicola Stock Breeders Association felt that an equality of laws must be built into any agreements over land and resources Canada enters into with Indigenous peoples and nations in British Columbia. Mr. Neale's organization wanted to see all Canadians treated fairly and equally within the confines of

British Columbia provincial regulations when it came to using the Crown land in the province. The moral of the story derived from his testimony is that all Canadians should have equal rights to land, a theme that has been used repeatedly by settlers to argue against inherent and treaty rights for almost two centuries (Brownlie 2009:315). That is, Mr. Neale believes that all peoples should have the same rights and privileges to Crown lands and no more, no matter what one's background or constitutionally-protected rights.

Rights equality was the moral of the story during Fenton Scott's presentation on behalf of the Prospectors and Developers Association of Canada as well. To the PDAC, however, that meant equality of access to lands. In other words, everyone has equal access to all of the lands in Canada with mining potential, regardless of treaties or inherent title, a philosophy Brownlie (2009:309) theoretically summarizes as integral to the liberal order. The moral of his story is this: failure to achieve this equality risks plunging Canada into an apartheid-type system based on special privileges or special incentives premised on racial differences. Of course such a moral completely ignores the privilege Euro-Canadians experience within settler Canada when it comes to owning and developing land (Ingram 2013; Monture 2007; Collins 1998:65) and where whiteness at least in the North American context becomes a form of access to property in and of itself (Harris 1993).

Such an 'apartheid-like' system, according to Cor Vandermeulen of the British Columbia Federation of Agriculture, whereby some groups have more rights than others based on their supposed 'race' would create problems that Mr. Vandermeulen suggests are problematic in any system in which one 'race' as he says imposes their decisions on

another ‘race.’ His is a way of thinking that completely ignores and denies the influential role the racialization of Indigenous peoples throughout Canadian history has played as racialization has interacted with patriarchy and capitalist forms of property to shape settler colonial relations in Canada (Simpson et al. 2011:293; Coulthard 2003). Another presenter, Andy Von Busse, from the Alberta Fish and Game Association, makes the point that failure to find equality in laws governing social relations with the lands, waters, and resources in Canada is due to the existence of Treaties 6 and 7. He believes such an inequality of laws promotes racism by preventing the development of positive attitudes between settlers and Indigenous peoples because of the inequality of rights treaties create when it comes to land use in settler Canada. Trouble arises from the continuation of one superior set of laws for one group of people, the treaties in other words according to Mr. Von Busse, and another inferior set of laws for settlers. Again, his language reflects a total lack of regard for the inequitable application of laws in Canada by European-derived settlers premised solely on race (Backhouse 1999). To organizations such as the ones described above the morals of the cultural narratives they told about equal rights when it comes to land use are shaped by the context of the liberal order framework in Canada. Every individual and group in the context of such a framework must have equal rights regardless of one’s background and history with the lands in question. Often in the testimonies the mere mention of Indigenous inherent or treaty rights in regards to land use is perceived by settlers in the testimonies analyzed in this dissertation as breaching this equality trust, thereby creating a form of discrimination or form of reverse racism (Brownlie 2009:315). This sentiment evident in the moral of the cultural stories narrated

from RCAP testimonies suggesting the apparent ‘apartheid-like’ nature of Canada is explained by Teun A. van Dijk (1993:128), who says that

Even slightly preferential treatment in specific situations will immediately be rejected as ‘reverse discrimination,’ that is, as an infraction of white group rights. Again, many stories, especially in situations of changing and more developed intergroup relations (for instance in the USA), will focus on this form of ‘threat.’

In the context of the liberal order’s insistence on equal access to private property, it is clear from the cultural stories that the supposed preferential access to the land extended to Indigenous peoples via their inherent and treaty rights that these settler storytellers perceive as ‘reverse racism’ is not congruent with liberal order ideal that one group of human beings should not possess rights that are superior or come at the expense of another group’s rights (McKay 2009:361; Brownlie 2009:313-315). All rights governing land use in settler Canada should be equal in a properly functioning liberal order and these rights should be governed according to a singular rule of law drafted, passed, and protected by the Canadian government.

Despite Canada’s efforts to impose a liberal-driven system of private property on the social relations of settler Canada and enforce an individualized land use regime, Indigenous peoples across Turtle Island have resisted these efforts and continue to practice a collective form of land use that opposes liberal order land use relations. This study has previously located those collective land use patterns in the relations flowing from inherent and treaty rights. The morals of some of the cultural narratives by people connected to the fishing industry in settler Canada was that these rights do not extend to the commercial sector. In other words, Indigenous fishers did not have inherent or treaty rights to a commercial fishery of their own and certainly did not have an equal right to do

so alongside settler commercial fishers. According to the morals of these narratives all ‘races’ should have equal access to a single commercial industry, but Indigenous nations do not have an equal right to control their own commercial industry on their terms. At the time of the commission, representatives of the United Fishermen and Allied Workers union told commissioners that a fishing industry controlled by Indigenous nations was risky because a definitive statement by the courts on what Indigenous commercial rights technically look like had not been given. It would be another two decades before such a statement was given by the Supreme Court of Canada in 2014 with the Nuu-chah-nulth nation decision which ruled in favour of the commercial rights of Indigenous nations to sell their fish harvest on the allegedly ‘open market.’ The risk was too great for the representatives of the BC Fisheries Survival Coalition who believed that the ‘Natives,’ as the coalition’s representatives stated, “... had the same right to participate in that fishery that we all have,” the ‘that’ in their quote referring to the commercial fishery that is controlled by settler Canada. The coalition was wary of a separate commercial fishery for Indigenous nations and believed that there was no constitutional or inherent right to a commercial fishery. They are not wary because it is the ‘Natives’ that are involved, but because they are wary of any separate entity aside from the governments of settler Canada controlling the industry. The representatives reaffirm that they would similarly protest if trollers were given control of their own industry.

This process of establishing an Indigenous-controlled fishery beside the Canadian-controlled one was referred to as ‘alienating the fish’ from settler Canadian commercial production in the British Columbian context. Wherever this commercial potential existed



to alienate the fish settler narratives were about the threat it posed to any number of different targets in their minds. The BC Fisheries Survival Coalition believed that Indigenous nations did not have a right to an Indigenous-controlled commercial fishery because the alienation of fish for this industry puts the fish stock at risk and as such it puts the settler Canadian commercial fishery in general and members of the BC Fisheries Survival Coalition at particular risk. The representative from the Prince Edward Island Fishermen's Association also believed alienating fish from the current system threatens the fish stock on the east coast of the country because their supposed 'open-ended' or unlimited rights would make an Indigenous-controlled fishery untenable. The representatives from the PEIFA worry that the attempt by settler Canada to fix the injustices of the past visited upon the people of the Mi'kmaw nation by establishing a commercial fishery for the fishers from this nation would not fix anything. As the PEIFA's representative asked commissioners, "... do you fix a wrong by impinging on the rights of another group of people?" To some of the settler fishers it is as if their entire economic class would end with the implementation of a fishery controlled by Indigenous nations and the threats posed by an Indigenous-controlled fishery were too great to risk respecting their equal rights to establish their own such fishery.

In a similar fashion the equality of inherent and treaty rights were not honoured by representatives from the CLC and CWF and the denial of their equality was rooted in the threats these rights posed to settler controlled Canada. The representatives from the Canadian Labour Congress were worried that granting equal rights in standing to inherent and treaty rights would somehow negatively affect the workers the CLC represents and if

they did so then there was no chance these rights would be honoured and respected by the CLC's workers. CLC representatives suggested that "If unions don't act on behalf of members whose livelihood is affected by the implementation of Aboriginal rights, the general support of its members, both for their union and for Aboriginal rights, would surely be in peril." The CLC's representatives reiterated the same refrain repeated by representatives from the PEIFA; that is, "... the injustices of the past can't be solved by putting injustices onto some people at the present." Representatives from the Canadian Wildlife Federation similarly felt that in those cases where Indigenous treaty and inherent rights threatened wildlife (because this wildlife apparently knows no boundaries), inherent and treaty rights would not receive equal standing in relation to the rights of some central authority to conserve this wildlife in the name of all Canadians. Basing their answer on liberal order discourse, CWF representatives suggested that "... where there is other lands that are not covered by treaty we believe that all people, Aboriginal and non-Aboriginal should be guided by the same regulations. So if there is a hunting season in a particular area that is not covered by a treaty we believe that all people should be treated equally and should follow the regulations in that area." Even though there is acknowledgement and acceptance of the superiority of treaty rights in a certain area, the CWF does not extend the same equality to areas that may not be covered by treaty but may instead be covered by inherent rights. Similar to the BC Fisheries Survival Coalition who believed that respecting treaty and inherent rights will lead to a fragmentation of authority on the water and put fish stocks at risk, representatives from the CFW believe a

central authority overlooking wildlife management is necessary because any fragmentation of this authority will put wildlife at risk.

Despite the fact that the equality discourse inherent to the liberal order is used in slightly different ways in the settler narratives, the effect they have is still the same. Settler stories about equality exclude the development of land use premised on the collective systems of land use by Indigenous nations. Whether it was about equal access to lands or denying equal access to their own, Indigenous-controlled commercial industry, equality of rights discourse protects the system of land use premised on private property that is so integral to the capitalist mode of production, the liberal order, and settler colonial relations and this protection comes at the expense of the diverse array of Indigenous land use systems described by Brownlie (2009) above. This is painfully evident in the small sample of counter stories narrated for this analysis. Even though settler presenters talked about equality incessantly in their testimonies, it becomes apparent upon closer analysis that land use in settler Canada is controlled by ideas about creating conditions of equality in terms of access to the land for ‘races,’ as if races were real, with some basis in biology. In the narrated cultural narratives, settlers treat Indigenous peoples as ‘races’ in a common sense or taken for granted way (Gotanda 2010:442) as opposed to nations in terms of land use. Such an approach erases the language, stories, spiritualities and relationships that centre the national identities of Indigenous peoples and nations on their territories. I believe the reason behind why settlers make this connection is similar to the reasoning of the Haudenosaunee Confederacy identified in the introduction; that is, the process by which a racialized

understanding of civilization disrupts resistance by Indigenous nations forms the foundation for modern day racism. To put it another way, the liberal order process of racialization that is evident in this analysis of RCAP testimonies, or liberal order racialization as I am coining the term in this study, is used to disrupt collectively-managed Indigenous land use systems and the efforts to implement such systems in settler Canada. This process is one among many in settler Canada that actively works to assimilate Indigenous cultures, peoples, and nations and it relies on the liberal order to do so - with grave consequences for Indigenous peoples.

Given the contrast between these starkly different understandings of land use in settler Canada, it would seem as if rectifying inherent and treaty rights when it comes to land use in settler Canada with liberal order understandings of land use premised on equal access of races to private property within a capitalist mode of production seems next to impossible. This is especially true considering how the belief in equal rights has been used to open up lands protected by treaty and inherent rights to development (Brownlie 2009). Indeed as Donna Brownlie says of the ‘equal rights’ position, it “... has been used continuously to oppose Aboriginal rights on the grounds that they violate equality rights and therefore discriminate against non-Aboriginal people” (Brownlie 2009:309). This study demonstrated Brownlie’s (2009:311) suggestion that the notion of ‘equal rights’ was ironically used to suppress the collective rights of Indigenous nations when it came to land use in twentieth century settler Canada through the language of race that racializes Indigenous identity. With that said it is crucial to remember that additional research would be necessary in order to measure the degree in which the liberal order conditions

land use in settler Canada in the twenty-first century, but one cannot help but wonder how much further along people are in understanding why liberal order beliefs were and perhaps still are so prevalent throughout the social relations of settler Canada in terms of land use.

Why is the discourse of the racialized liberal order framework so common in the testimonies from settlers who testified to RCAP? Perhaps it is so prevalent in the cultural narratives if one believes as McKay (2009) does that the liberal order is a project of rule. It is a project of rule, however, that has made the process of racialization possible in twentieth century social relations, doing just as the Haudenosaunee Confederacy and sociologists have pointed out it has been doing in the past - providing ideological justification for the repression of resistance to settler colonial-based inequality (Simpson et al. 2011; Akwesasne Notes 2005). Whereas older racist discourses crucial to this inequality and the dispossession of land at its root are located in the overt racism practiced by settlers which calls for the need to civilize Indigenous peoples for their own good (Anderson 2011:172), newer forms of what scholars refer to as democratic racism (Galabuzi 2006; Henry et al. 2006) or liberal racialization to reflect the connection between land and racialization theorized through this analysis, infuse the nation-to-nation social relations with an element of racialization that ignores the national question (Brownlie 2009:316). It does so in a more subtle way than the overt racist suggestion calling for the civilization or assimilation of Indigenous peoples that the Haudenosaunee Confederacy identified. Appealing for equal rights under one rule of law while using a racialized discourse to denigrate other, Indigenous-centred national identities which all

possess their own equally valid rules of law – without ever acknowledging their national identity - is detrimental to building a world where settlers respect the inherent rights of Indigenous peoples and nations let alone their treaty responsibilities on a nation-to-nation basis. Stories that do this fail to challenge the assimilatory, some say genocidal nature of settler colonial relations and the role racism plays in the reproduction of these relations historically and today.

Understanding the role of the nation state in the reproduction of liberalism (Brownlie 2009:299) is also crucial to consider when thinking about why liberal racialization is so prevalent in the testimonies about land use in settler Canada. The reason why considering the state is a good target to focus on when trying to answer this question about its role in the reproduction liberal racialization is because without a doubt “The modern state exercises moral and educative leadership – it ‘plans, urges, incites, solicits, punishes.’ It is where the bloc of social forces which dominates over it not only justifies and maintains its domination but wins by leadership and authority the active consent of those over whom it rules. Thus it plays a pivotal role in the construction of hegemony” (Hall 1986:19). Hegemony was the theoretical concept developed by Lenin to reflect his understanding of the struggle for the power to control social relations by controlling the means of production. According to Hall, Gramsci (1971) later added his own understanding to the concept on account of the fact Gramsci did not believe controlling the state would lead to the end of capitalism in the West. He believed hegemony was a battle that must be waged across multiple fronts, including the cultural one. This study found that the power by which settlers exercised their control over private property, in

other words their hegemony over the land, operated through cultural narratives that worked to justify the repression of all resistance to this control. The primary tool of these narratives was liberal order racialization.

This study does not claim to do justice to a proper theoretical work exploring the role of the nation state in the reproduction of settler cultural narratives, but the question remains: if the nation state does in fact play some role in the reproduction of liberal racialization as a prevalent conception of the world in Canada, then what is this role? To speak with Gramsci, who was concerned with understanding “... how particular conceptions of the world become effective” (Wainwright 2010:509) within the context of the ongoing struggle over hegemony over the land, how has the state facilitated the creation of settler narratives about the lands of Canada that rely on a racialized understanding of the liberal order framework? Perhaps it has done so by developing stories within the context of an education system where “... few academic contexts exist in which to talk about Indigenous knowledge, as most literature dealing with Aboriginal knowledge would like to categorize it as being peculiarly local and not connected to the normative knowledge” (Battiste 2012:21). It is one small part in the matter of the state’s role in the construction of cultural narratives, but such an academic context would undoubtedly mitigate any introduction to counter stories or knowledge of the settler social relations that give rise to counter stories which would call into question the nature of these relations. Couros et al. (2013) proved a similar notion when they showed how their treaty education module improved understandings of the numbered treaties covering western Canada that had been left wanting in high school students raised in school

systems that paid little attention to treaties - or the Indigenous knowledge systems and inherent rights underlying the terms of these treaties.

Another means of answering this question as to what role the nation state has played in the creation of settler cultural narratives is to think about the strategic function liberalism serves in the way that it provides cohesion for the nation state of Canada in the face of internal fragmentation and external challenges (Wallerstein 1991:82). Liberal order racialization has certainly become, in Lenin's words, an effective 'ideological social relation' that shapes social activity as it operates via institutions and material practices (Hall 2001:55) to develop some sort of unifying national sentiment that bonds settlers together despite their internal variation along national, religious, class, gender, and racialized lines. It is certainly not the only ideological social relation wielded by the state to effectively reproduce a cohesive settler society in the face of such fragmentation for, as Gramsci believed, there are many such ideological social relations responsible for the reproduction of hegemony (Hall 1986:22), but liberal order racialization is certainly one of the oldest such relations in settler Canada since it is linked to the origins of the cultural and political disagreements between the state and Indigenous peoples (Brownlie 2009:299). It functions as an ideological social relation that counters the efforts by Indigenous peoples to resist the development of the settler colonial relations on Turtle Island (Coulthard 2007:439; Akwesasne Notes 2005) by acting as a kind of glue binding the otherwise disparate national identities of settlers together into the imagined nation of Canada in opposition to the Indigenous nations across the settler landscape. This cohesion



makes the nation state of Canada more capable of controlling the system of private property that denies any and all forms of collective land use.

The point of this chapter was not to try and present the information in it in the form of final and conclusive ‘Findings’ that are correct, objective, and factual. If this is really a narrative analysis of stories, then how could it be considering one of the greatest contributions of Ongewehon:we cultures to the West – that is, the ideas stories never end (Nandorfy 2011:338-339). If stories never end then neither does any analysis of them. Hence any findings from analyzing narratives cannot be final, conclusive proof of anything. This study is simply a snapshot of the dynamics in regards to relations upon the land in settler Canada demonstrated by the cultural and counter narratives in the early 90s in settler Canada. Or, instead of using the term snapshot, a better term is what McKay (2009) referred to as a ‘reconnaissance,’ or a political act of research interested in arousing critiques of settler Canada (McKay 2009:404). The point of this study was not to develop some sort of totalizing claim to understanding definitively once and for all the form of liberalism evident in the settler narratives. Indeed in terms of dialogical narrative analysis, the word ‘findings,’ according to Frank (2012:37) is an ‘undialogical’ word, “... with its implication of ending the conversation and taking a position apart from and above it.” Instead, similar to McKay’s (2009) ‘reconnaissance’ concept, the goal of dialogical narrative analysis is

... to open continuing possibilities of listening and of responding to what is heard. Analysis aims at increasing people’s possibilities for hearing themselves and others. It seeks to expand people’s sense of *responsibility*... in how they might respond to what is heard. DNA rarely, if ever, prescribes responses. It seeks to show what is at stake in a story as a form of response. (Frank 2012:37)

This is, in fact, what Archibald (2008) considers the strength of a story – the degree to which it challenges you to think. As Archibald (2008:85) says, speaking from an Indigenous knowledge perspective, “The strength of stories challenges me to think, to examine my emotional reactions in relation to plot and characters, to question and reflect on my behaviours and future actions and to appreciate a story’s connections to my spiritual nature.” The narratives analyzed in this study challenge the reader to think in greater depth about liberal racialization in settler Canada and the way it denies the inherent and treaty rights governing land use in this context. It was not meant to be the final word on any of these topics. Instead, it was dedicated to bringing voices together to see what their collective power theoretically revealed about the effects of liberal order racialization on land use patterns in the settler Canadian context. Doing so contributed to the development of what I believe is a useful understanding of the settler colonial foundation upon which Canada is set and the role of liberal racialization in shaping this foundation.

The analysis in this chapter began by briefly explaining what this study meant by the moral of a story and in the case of this study the moral of the story was meant to generally refer to the point of the story. As reviewed in the beginning to this chapter, the morals of narratives are useful analytical targets because of their influence on social relations. The chapter then explained the contrast between the cultural and counter narratives built from the RCAP testimonies. Both counter and cultural stories were about land use as they explored how settlers and Indigenous peoples sought to exercise self-determination and self-government over the lands, resources, and water, or the necessities of life, within the

context of settler Canada. There is a key difference, however, in terms of the morals of these stories. Canadians and their stories about their relations with the lands, waters, and resources of Turtle Island necessitate some form of racialized understanding of the national identities of Indigenous nations, which is cloaked in a liberal order understanding of equality under one rule of law, especially the equality of individual races under one rule of law. None of the settler storytellers mentioned during their testimonies that they were embedded in the broader settler colonial relations endemic to North American society (Brayboy 2005), which is why they were conceptualized as cultural narratives in this study. Contrast these morals with the morals of the counter stories which ultimately were about how the national identities of Indigenous peoples are founded upon their responsibilities to their lands through their relationships with the Creator and the stories, spiritualities, languages, and cultures underlying these responsibilities. These counter stories consistently narrated “... particular experiences ... rooted in and part of an encompassing cultural, material, and political world that extends beyond the local” (Ewick and Sibley 1995:219). They did so by testifying about the consequences of settler colonial relations that extend beyond the local context and the alternatives to such relations Indigenous peoples and nations have developed after five hundred years of resistance to such relations. The final section of this chapter dealt with understanding where cultural stories imbued with liberal order racialization come from more generally given they were so pervasive in the testimonies from settlers, stretching across class and gender lines. It theorized that liberal order racialization originates within the domain of nation states such as the settler Canadian state and its power to generate and reproduce

cultural narratives through the education system in order to wield control over the land and capture it for the purposes of private property. In the future such a briefly-reviewed theoretical development must consider how this state-driven, education-focused understanding interacts with patriarchy and capitalism to deny the violent and genocidal reality of settler colonial relations in favour of a more liberal understanding of their nature. In the concluding chapter this study wraps up the story of this research and explores the potential for developing more counter stories and a blueprint for an anti-colonial praxis from the responsibilities bestowed upon settlers as detailed by Indigenous peoples in their counter stories.

## **Chapter 7 – The moral of this story**

In this final chapter I will summarize the discussion of the morals of the counter and cultural stories from the previous chapter, explore the meaning of these narratives, and explain their usefulness in developing anti-colonial praxis. This chapter will clarify how the morals from the cultural stories about social relations upon the lands of Turtle Island utilize liberalism in a way that effaces the broader settler colonial relations while relying on common sense notions of ‘race,’ or what I refer to as liberal racialization. This easily distinguishes them from the morals of the counter stories that reference these relations through the lens of inherent and treaty rights, providing the reader with a window into the consequences of denying these rights and the alternatives to settler colonial relations in Canada. This reference to broader settler colonial social relations via inherent and treaty rights is what distinguishes them as counter stories. The contradiction that is evident between these two types of stories represents a path forward toward anti-colonial resistance because failing to listen to and to create counter stories that resist liberal-influenced cultural narratives will lead to more racism, a stronger capitalism, continued gendered violence, and poisoned air, land, and water (Amadahy et al. 2009:131). This chapter concludes by exploring the role sociology can play in working with Indigenous knowledge systems to move along this path by ensuring counter stories about land use in settler Canada reach settler ears both inside and outside the academy.

### **XLI. The moral of the story of this study**

Polletta (2006:9) explains how the morals of stories are evident in the fate of their characters. Applying such an idea in the case of the cultural stories told by the settler

Canadian characters studied, the ideas they have in mind in terms of the responsibilities Innu, Inuit, Métis, Gwich'in, and Indigenous peoples must exercise on the lands of Turtle Island are rooted in the liberal order – particularly the liberal order's racialized discourse about the equality of rights to private property protected by the security of the Canadian government's rule of law. The counter stories are not. The morals of these stories demonstrate a national identity that is older than any European-based one (Sunseri 2005, as cited in Lawrence et al. 2005:132), and as such these stories stretch back through time immemorial, come from the Creator, convey responsibilities that guide one's journey through the natural world (Ladner 2001:250), and describe the consequences of and alternatives to settler colonial relations. The characters of these stories sought to clarify how SCRs have affected their lives and how they build lives in opposition to these social relations brought to Turtle Island by Europeans. As Lawrence et al. (2005:126) suggest in their previously reviewed work, settlers are reluctant to acknowledge the existence of settler colonial relations and all they entail because to do so means to question the very nature of settlers' relations to the lands of Turtle Island.

The morals of the counter stories oppose the liberal racialized morals of the cultural stories and work to make their listeners aware of the colonial project unfolding all around them because they illuminate the consequences of and alternatives to settler colonial relations. In this way they contest the liberal circumstances described in the morals of the status quo-reproducing cultural stories (Bell 2003:8). Although not always explicitly referenced, this study looks at how counter stories in the context of Turtle Island are premised on the “... continued belief in the right to the land and the gifts of the Creator,

such as game and fish and a foundation of an allodial land title, title in the people by virtue of having been placed there by the Creator” (Switlo 2002:117). It must be noted, however, that counter stories are not limited to Indigenous peoples. Christine Lwanga, for example, from the Saskatoon Multicultural Council Equity and Anti-Racism municipal committee, made an important distinction between the founding Indigenous nations of Canada and the policy of multiculturalism that tends to minimize such distinctions and lump Indigenous peoples into other, non-relatable categories such as visible minority. Similar to the logic seen in the cultural narratives explored in this study in terms of settlers perceiving Indigenous nations as races instead nations, such categorization comes at the expense of recognizing the settler colonial context within which Indigenous peoples and settlers exist. However, it must be noted that some specific counter stories are limited to Indigenous peoples only as some of the counter stories theorized in this study are defined by a moral prerogative that stresses responsibilities to the Creator, to the land, and to each other that have existed since time immemorial (Amadahy et al. 2009:117; Ladner 2001: 250; Satzewich 1994:57).

Sometimes the sacred responsibilities referenced in the morals of the counter stories told by Indigenous peoples are premised on treaty documents that, while often misinterpreted or historically overlooked, set out the responsibilities each treaty partner must uphold to realize the spirit and intent of the treaty in the context of land use in settler Canada. Sometimes, as in the case of the Lubicon, Stó:lō, and Innu peoples’ testimonies, where testifiers mentioned there is no recognition of band status or a treaty arrangement, responsibilities are supposed to be protected by section 91(24) of the British North

American Act that made Canada constitutionally responsible for Indigenous, Innu, and Inuit peoples (Barker 2008:260). These responsibilities are not acknowledged at all (the failed Charlottetown Accord would have extended this constitutional responsibility to the Métis) in the settler narratives. In fact, according to some Indigenous people who testified to RCAP, section 91(24) has been frequently used to justify the seemingly endless relocations and losses of lands as doing so in the eyes of the Canadian government would facilitate the assimilation of Indigenous peoples into European and subsequently Canadian ways of life (Lawrence 2002:76).

Sacred responsibilities are premised on instructions given from the Creator that are “... manifested and revealed through ceremony, song, dance, and prayer” (Martin-Hill 2004:321). Such responsibilities are rooted in inherent or what are also called ‘Aboriginal Rights’ by settlers and these rights are premised on the fact that Indigenous, Innu, Inuit, Dene, Gwich’in, Métis and other original peoples on Turtle Island and their ancestors not mentioned in this study have existed on Turtle Island since time immemorial and, as discussed above, they have been tasked with upholding the responsibilities bestowed upon them by the Creator (Switlo 2002). Such ‘allodial rights,’ as Switlo (2002) also refers to them, are meant to ensure a harmonious survival with the land and the life on Turtle Island through an existence that respects, upholds, and carries out the responsibilities from the Creator. In other words, one of the morals of the counter stories explored in this study is that people have been entrusted with instructions from the Creator to live in harmony with a particular region or territory. Kiera Ladner (2001:250) suggests these instructions shape a relationship that is



... a spiritual one, for they had been given it (and the responsibilities that went with it) by the Creator. It was their ‘space’ but not their ‘state,’ for a nation’s territory was not conceived of in terms of impenetrable borders, but rather the sacred places and landscapes that defined their past and their relationship to the Creator and all of creation.

This is precisely the line of thinking RCAP did not follow in its final report, as it focused on developing relations between Canada and those nations that were considered large enough to warrant the title of ‘nation’ (Ladner 2001:244). It ignored smaller nations and their social relations with specific lands and sacred sites. Ladner’s description of sacred places and landscapes is also precisely the sort of connection to land Sharma et al. (2008:123) criticized when they said, “ ... the only way *not* to be a ‘colonizer’ is to remain on the land with which one is associated, which is something many people have been unable or unwilling to do in the past and that a growing number of people find impossible or undesirable to do today.” To respond to Sharma et al. (2008), then, it is clear that Indigenous peoples still want to live close to the lands with which they are associated, particularly as those lands are considered culturally sacred landscapes. For those individuals such as settlers who have no historical connections to the lands of Turtle Island before their arrival five hundred years ago, what may potentially determine whether or not you are a settler in the true sense of the word, that is, a settler-invader to some (Anderson 2011; Nandorfy 2011:337), depends on the the material relations you forge on the land and the types of stories you tell of the lands you now inhabit (Amadahy et al. 2009:107). In the case of the analysis carried out in this study it would appear as though definitively settler social relations demonstrate liberal order racialization in the morals of their cultural stories.

Failure to recognize this process that strips Indigenous peoples of their national identity is to continue to participate in a settlement project that denies the inherent and treaty rights of Indigenous peoples and risk adopting the label ‘settler-invader.’ Adopting this label means ignoring, in the case of the Stó:lō fishers, responsibilities from the Creator rooted in a connection to their lands and waters that has helped guide fishers to harvest salmon sustainably generation after generation since time immemorial. Following Sharma et al.’s (2008) and Sharma’s (2015) theoretical lead would mean disregarding the Two Row Wampum and Three Figure Wampum agreements entered into by the peoples of the Algonquin nation that are based on their belief in the supremacy of the Creator and their connections with their lands in what is known to settlers as Ontario and Québec. This means disregarding the Great Law of Peace and its role in the lives of the members of the Haudenosaunee Confederacy. In several cases when there was a question about the interpretation of the treaties, presenters clarified that their ancestors could not possibly have surrendered land via the treaty because the land was granted to them by the Creator. Hence, the presenters asked, how could they surrender what they did not own in the first place? In Sharma et al.’s (2008) analysis and in Sharma’s (2015) latest work there is no room for such close connections with the lands as both pieces are critical of meaningful connection to land Sharma would rather see held in common.

Erasing these connections is troubling in light of the case of matrilineal societies such as the Haudenosaunee peoples, where the women are in charge of the land and the social relations with the local soil granted by the Creator (Shenandoah 1992; York et al. 1992:72). Treating the peoples of the Haudenosaunee Confederacy as a ‘race’ of people

equal to any other as opposed to a national identity with inherent and treaty rights erases the underlying matriarchical gender relations of the Confederacy's land use patterns. The devaluation of women's role politically has been cited as the reason Indigenous women suffer disproportionate levels of violence (Anderson 2011). In light of the private property relations imposed on the lands of Turtle Island in the context of the capitalist mode of production, these sorts of gendered social relations with the land make women in such societies the 'bearers of a counter-imperial order' (Smith 2005, as cited in Anderson 2011:172) since the collective control women exercise over the land in some Indigenous communities counters the tendency in settler Canadian land use to take the liberal order approach to privatizing land and turning it into a commodity controlled by men (McKay 2009). If one were to follow Sharma et al. (2008), then, the counter-imperial power of Indigenous women and their stories imbued with such power would be rendered invisible to settlers seeking alternative social relations with the lands of Turtle Island since Sharma's work does not acknowledge human beings have inherent rights to particular tracts of land on Turtle Island.

By erasing the nature of settler colonial relations the cultural narratives analyzed in this study render the violence against Indigenous women invisible. Is the murder and disappearance of Indigenous woman indicative of the larger genocidal project arguably unfolding throughout Turtle Island? If so, it is critical to wonder if the underlying beliefs behind the cultural stories derived from RCAP testimonies analyzed in this study reproduce what Bain Attwood suggested British symbols such as stories on Turtle Island have accomplished since the imposition of the settler formation centuries ago. That is, do

these cultural narratives create a sense of moral justification for the genocidal damage wrought by land use in settler Canada? That is, do the kinds of morals evident in the cultural narratives analyzed in this study create a sense of moral rightness in light of the gendered violence stemming from land use patterns in settler Canada erase the systemic violence that the settler formation requires for its very existence (Anderson 2011:172)? The way in which the morals of the cultural narratives efface the fact that Canada is a settler nation with land use that is steeped in settler colonial relations reinforces the fact that the country is a “... white settler colony built on the expropriation of Indigenous land, erasure of Indigenous histories, and ongoing colonization” (Simpson et al. 2011:285). Settler Canada’s racialization of the national question through the liberal order affects how Indigenous people relate to the lands of Turtle Island and yet these effects are not evident in the morals of the cultural narratives developed from the RCAP testimonies for this study. This pervasive tendency to racialize the national question is inherent to a settler colonial context according to Nandorfy (2011). For as she reminds us, speaking of settlers and their stories

... we can surmise that, wherever the mission was and continues to be encroaching on Native land, to divest Native peoples of their culture, their spiritual, intellectual, territorial, and material heritage, stories will have a certain similarity of intent plainly decipherable in their narrative features. (Nandorfy 2011:340)

## **XLII. The morals of racialized liberal order narratives**

The process of racializing the national question through the liberal order is what I refer to as liberal order racialization, but my work has been influenced by what Henry et al. (2006) referred to as ‘democratic racism.’ Galabuzi (2006:35-36) defines democratic racism as “...the contradictory way in which racist ideologies are articulated in Canadian

society, which also upholds egalitarian values of justice and fairness.” It refers to the process by which racism 'cloaks its presence in narratives derived from the principles of the liberal-order (Henry et al. 2006:186). With this concept, the overt racism of an earlier era that was premised on biological inferiority and as a result of this inferiority the need for civilizing (Anderson 2011:172; Regan 2010:68; O’Connell 2009:187; Tupper et al. 2008:566; Whitlock 2006:28; Miles and Brown 2003:20) has evolved into a less overt, although equally racist narrative which is premised on the language of culture instead of supposed racial inferiority (Thobani 2007:158; Andersen et al. 2003:377). The moral of many of these narratives looked at was that land use by Indigenous peoples must be controlled and restricted in ways acceptable to settlers and their governments - even if this meant decoloniation must be delayed. It was clear from the cultural narratives that resolving the injustices created by the history of settler colonialism in Canada and its ongoing legacy would disadvantage those who are currently enjoying the privileges as a result of these injustices – i.e., settlers, their governments, and their languages. This is why efforts to resolve these injustices must be limited. One way in which they were limited in the cultural narratives was through the use of liberal order racialization uses the common sense idea of ‘race’ (Gotanda 2010) to erase the national identities of Indigenous peoples.

Several presenters representing organizations comprised of thousands of people testified to the need for equality in regards to the rule of law, the liberal equality of rights doctrine that is tragically ironic given the way in which settler-imposed law, particularly the Indian Act (McGregor 2011:302; McCarthy 2010:90; Amadahy et al. 2009:113;

Barker 2008:263), has racialized the nation-to-nation relations on Turtle Island. In the testimonies, settlers testified that special rights, whether treaty or inherent, created an apartheid-like system that recognized special privileges based on race. Similarly, other settlers noted how it was ‘reverse racism’ to impose an injustice on one group, settlers, to address the injustices experienced by another group, Indigenous peoples. To preserve the supposed equality of individuals in settler Canada the colonial-induced injustices of the past must be wrapped up in a liberal cloak, racializing national identity in the process. Thus the preservation of the current colonial social order through liberal-inspired equality under one rule of law is paramount to settlers. As Linda Tuhiwai Smith (1999:27) notes, “The principle of order provides the underlying connection between such things as: the nature of imperial social relations; the activities of Western science; the establishment of trade; the appropriation of sovereignty; the establishment of law.” Order maintained through racialized equality ensures the land remains under settler control for the purposes of capital accumulation via the commodification of the land into private property.

### **XLIII. The moral of my story - creating more moral tales**

In the interest of a decolonized settler Canada in the future, consideration must be paid to Frank’s question (2012:44-45) asking “What other narrative resources, if available, might lead to different stories and change people’s sense of possibility in such settings?” In the case of this study this question means: how do settlers begin to tell stories that challenge liberal racialization. The answer is, of course, counter stories that resist these liberal order tendencies when it comes to land use in settler Canada. As Amadahy et al. (2009:116) note, “In seeking to understand ways of working together, we can learn much

from the oral histories and stories of Indigenous peoples concerning the framework in which relationships are understood.” Such stories may help settlers revise their faulty narrative myths about their relations to the lands of Turtle Island because they will teach settlers about the inherent and treaty rights they must uphold with Indigenous nations in regards to governing land use in the country. Counter narratives help put the idea of inherent and treaty rights front and centre in the settler social relations, compelling settlers to question their relations to the land and challenging them to unlearn the beliefs, ideas, and racialized liberal conceptions of the world embedded in the cultural stories they tell themselves (Regan 2010:68). Hence, settlers need to listen to more counter stories which are centred on “... a responsibility-based process [that] entails sparking a spiritual revolution” (Cornassel 2008:124) and less stories centred on how settler understandings of ‘races’ relate to the land, what Nanorfy (2011) might define as imperial stories. We need to work to identify and intervene in the reproduction of such cultural stories that are indisputably settler colonial in nature – racialized liberal stories that reproduce settler hierarchies in terms of land use instead of flattening them. This is the strategy advocated by Nandorfy (2011:347) who believes

The challenge for non-Natives will be to give up the imperial stories and to learn reconciliatory saving stories. However, stories do not grow out of nothing, so the question is how will non-Natives construct new ones?

The dialogic exchange of stories in pursuit of social justice in settler Canada must lead to anti-colonial praxis capable of addressing and resisting the harms wrought by settler colonial relations. The point will be to have a “... a full and open discussion of the past, its relation to contemporary inequalities and oppression, and considerations of how to

respond to these historical and contemporary inequalities” (Norkunas 2004:118) in the present, for without this action true healing will not occur. Canadians need to listen to the survivors of settler colonialism, and the stories about the gendered violence, residential schools, and genocide they have endured (Martin-Hill 2004:313), and act accordingly to right these wrongs by building alternatives to settler colonial social relations that are not assimilatory or genocidal in nature. Whitlock (2006) believes the work to repair the social relations broken by the weight of such a genocidal system must start with listening, for in her words she says that “Reparation can only begin when there is an understanding that comes through listening, followed by an acknowledgement of the shameful deeds of the past and a genuine expression of regret” (Whitlock 2006:33). With all due respect, I would actually conclude Whitlock’s quote with a line that said something to the effect that the conclusion of reparations will not come until decolonizing actions are taken in response to this listening.

Sociologists can use their position of privilege to facilitate the exchange of narratives for the purpose of building anti-colonial praxis in the service of decolonization.

According to Richardson (1990:131), there is indeed a moral responsibility at the site of any narrative analysis which gives impetus to sociology’s role in resisting settler colonialism through anti-colonial storytelling and praxis. To Richardson the issue is not only a moral one but a practical-ethical one as well. For her, the question is “... how can we use our skills and privileges to advance the case of the non-privileged” (Richardson 1990:131)? The answer in the context of this study is, of course, narrative analysis and the sociological imagination and using both to tell the stories of those who have been



silenced and to critically explore the stories of those who have had the privilege to tell their liberal tales. Or, in other words, “Providing the stories that may not otherwise be heard, while taking to task stories that are heard far too frequently” (Norkunas 2014:116). A combined Tribal Critical and Critical Race Theory approach coupled with the sociological imagination demonstrates the value of combining Indigenous knowledge systems with Western ones and may help with the creation of transformative, anti-colonial counter stories capable of uniting people to resist settler colonialism both inside and outside the academy for the sake of everyone now inhabiting Turtle Island.

Counter stories studied in this analysis were considered counter in nature because they spoke to the wider social relations inherent to settler colonialism, describing in tragic detail at times the consequences of the patriarchy, capitalism, and racism underlying these relations. Through the morals of these stories settlers come to understand how to resist settler colonial relations as they are the foundation for fashioning anti-colonial stories and social relations. The cultural stories, at least the ones looked at in this study, demonstrated the opposite. In these stories it was a denial of settler colonial relations that led me to conceptualize them as cultural in nature. This denial was premised on the process of liberal racialization which means using the liberal order and its calls for an ‘equality of rights among ‘races’ when it comes to land, leaving a wave of genocide in its wake. The effect, as the knowledge keepers of the Haudenosaunee Confederacy noted so long ago, was to repress any resistance to the settler status quo. Thus the moral of my story: settler Canada needs to listen to more counter stories like the ones I heard from members of the Haudenosaunee Confederacy that taught me so much about settler Canada’s nature.

References

- Aguirre, Jr. Adalberto. 2000. "Academic Storytelling: A Critical Race Theory Story of Affirmative Action." *Sociological Perspectives* 43(2): 319-333.
- Amadahy, Zainab and Bonita Lawrence. 2009. "Indigenous Peoples and Black People in Canada: Settlers or Allies." Pp.105-136 in *Breaching the Colonial Contract: Anti-Colonialism in the US and Canada*, edited by A. Kempf. Dordrecht, Netherlands: Springer Netherlands.
- Anderson, Kim. 2011. "Native Women, the Body, Land, and Narratives of Contact and Arrival." Pp.167-188 in *Storied Communities – Narratives of Contact and Arrival in Constituting Political Community*, edited by H. Lessard, R. Johnson, and J. Webber. Vancouver, BC, and Toronto, ON: UBCPress.
- Andersen, Chris and Claude Denis. 2003. "Urban Natives and the Nation: Before and After the Royal Commission on Aboriginal Peoples." *The Canadian Review of Sociology and Anthropology* 40(4): 373-390.
- Archibald, Jo-ann. 2008. *Indigenous Storywork – Educating the Heart, Mind, Body, and Spirit*. Vancouver, BC, and Toronto, ON: UBC Press.
- Ashforth, Adam. 1990. "Reckoning Schemes of Legitimation: On Commissions of Inquiry as Power/Knowledge Forms." *Journal of Historical Sociology* 3(1): 1-22.
- Backhouse, Constance. 1999. *Colour-Coded – A Legal History of Racism in Canada, 1900-1950*. Toronto, ON, Buffalo, NY: University of Toronto Press.
- Barker, Joanne. 2008. "Gender, Sovereignty, Rights: Native Women's Activism against Social Inequality and Violence in Canada." *American Quarterly* 60(2): 259-266.
- Battiste, Marie. 2012. "Enabling the autumn seed: Toward a decolonized approach to Aboriginal knowledge, language, and education." *Canadian Journal of Native Education* 22(1):16-27.
- Bell, Lee Ann. 2003. "Telling Tales: what stories can teach us about racism." *Race Ethnicity and Education* 6(1): 3-28.
- Berg, Lawrence D., Mike Evans, Duncan Fuller, and The Okanagan Urban Aboriginal Health Research Collective. 2007. "Ethics, Hegemonic Whiteness, and the Contested Imagination of 'Aboriginal Community' in Social Science Research in Canada." *ACME: An International E-Journal for Critical Geographies* 6(3): 395-410.

- Brave Heart, Maria Yellow Horse, Josephine Chase, Jennifer Elkins, and Deborah B. Atschul. 2011. "Historical Trauma Among Indigenous Peoples of the Americas: Concepts, Research, and Clinical Considerations." *Journal of Psychoactive Drugs* 43(4): 282-290.
- Brayboy, Bryan McKinley Jones. 2005. "Toward a Tribal Critical Race Theory in Education." *The Urban Review* 37(5):425-446.
- Brownlie, Robin J. 2009. "A Persistent Antagonism: First Nations and the Liberal Order." Pp. 298-321 in *Liberalism and Hegemony: Debating the Canadian Liberal Revolution*, edited by M. Ducharme, M., and J.F. Constant. Toronto, ON, Buffalo, NY: University of Toronto Press.
- Carroll, William. 2010. "Crisis, movements, counter-hegemony: in search of the new." *Interface: a journal for and about social movements*. 2(2):168-198.
- Castellano, Marlene B. 1999. "Renewing the Relationship: A Perspective on the Impact of the Royal Commission on Aboriginal Peoples." Pp. 92-111 in *Aboriginal Self-Government in Canada: Current Trends and Issues*, edited by J. Hylton. Saskatoon, Saskatchewan, Canada: Purich Publishing Ltd.
- Chanteloup, Francoise. 2003. "Considering the myth of the drunken Indian." Ph.D. dissertation, Department of Sociology and Anthropology, Carleton University, Ottawa, ON.
- Collins, Patricia H. 1998. "It's All In the Family: Intersections of Gender, Race, and Nation." *Hypatia* 13(3): 62-82.
- Corntassel, Jeff. 2008. "Toward Sustainable Self-Determination: Rethinking the Contemporary Indigenous-Rights Discourse." *Alternatives* 33: 105-132.
- Coulthard, Glen S. 2003. *Subjects of Empire? Indigenous Peoples and the 'Politics of Recognition in Canada.'* Ph.D. dissertation, Department of Political Science. University of Victoria.
- , 2007. "Subjects of Empire: Indigenous Peoples and the 'Politics of Recognition' in Canada." *Contemporary Political Theory* 6: 437-460.
- Couros, Alec, Ken Montgomery, Jennifer Tupper, Katia Hildebrandt, Joseph Naytowhow, and Patrick J Lewis. 2013. "Storying Treaties and the Treaty Relationship – Enhancing Treaty Education through Digital Storytelling." *International Review of Qualitative Research* 6(4): 544-558.

- Crenshaw, Kimberle, Neil Gotanda, Gary Peller, and Kendall Thomas. 1995. *Critical Race Theory: The Key Writings that Formed the Movement*. New York, NY: New Press.
- Dampier, Helen. 2008. Re-reading as a methodology: the case of Boer women's testimonies. *Qualitative Research*, 8(3):367-377.
- DeCuir, Jessica T. and Adrienne D. Dixson. 2004. "So when it comes out, they aren't that surprised that it is there': Using Critical Race Theory as a tool of analysis of race and racism in education." *Educational Researcher* 33: 26-31.
- Delgado, Richard. 1989. "Storytelling for Oppositionists and Others: A Plea for Narrative." *Michigan Law Review* 87(8): 2411-2441.
- Dua, Enakshi, Narda Razack, and Jody Nyasha Warner. 2005. "Race, Racism, and Empire: Reflections on Canada." *Social Justice* 32(4): 1-10.
- Ewick, Patricia and Susan S. Sibley. 1995. Subversive Stories and Hegemonic Tales: Toward a Sociology of Narrative. *Law and Society Review* 29(2): 197-226.
- , 2003. "Narrating Social Structure: Stories of Resistance to Legal Authority." *American Journal of Sociology* 108(6): 1328-1372.
- Faye, Jefferson. 2001. "Revealing the Storyteller: The Ethnical Publication of Inuit Stories." *The American Review of Canadian Studies* Spring/Summer: 159-170.
- Flanagan, Kieran. 2011. "Commissions of inquiry as ritual: Bourdieu, the marquis and the Endowed Schools of Ireland, 1854-58." *Irish Studies Review* 19(3): 281-306.
- Flyvbjerg, Bent. 2001. *Making social science matter: Why social inquiry fails and how it can succeed again*. Oxford, UK, New York, NY: Cambridge University Press.
- Frank, Arthur W. 2012. "Practicing Dialogical Narrative Analysis." Pp. 33-50 in *Varieties of Narrative Analysis*, edited by J.A. Holstein and J. F. Gubrium. Los Angeles, London, New Delhi, Singapore, Washington DC: Sage Publications Inc.
- Frankel, Oz. 1999. "Scenes of Commission: Royal Commissions of Inquiry and the Culture of Social Investigation in Early Victorian Britain." *The European Legacy* 4(6): 20-41.
- Galabuzi, Grace-Edward. 2006. *Canada's Economic Apartheid – The Social Exclusion of Racialized Groups in the New Century*. Toronto, ON: Canadian Scholars' Press.

- Gotanda, Neil. 2010. "The 'Common Sense' of Race." *Southern California Law Review* 83:441-452.
- Gramsci, Antonio. 1971. *Selections of the Prison Notebooks of Antonio Gramsci*. New York, NY: International Publishers.
- Guba, G. Egon and Yvonna S. Lincoln. 2004. "Competing Paradigms in Qualitative Research – Theories and Issues." Pp. 17-38 in *Approaches to Qualitative Research. A Reader on Theory and Practice*, edited by P. Leavy and S.N. Hesse-Biber. New York, NY and Oxford, UK: Oxford University Press.
- Guerro, M.A. Jaimes. 2003. "'Patriarchal Colonialism' and Indigenism : Implications for Native Feminist Spirituality and Native Womanism." *Hypatia* 18(2): 58-69.
- Guntarik, Olivia. 2009. "Resistance narratives – A comparative account of indigenous sites of dissent." *Narrative Inquiry* 19(2): 306-327.
- Hall, Stuart. 1986. "Gramsci's Relevance for the Study of Race and Ethnicity." *Journal of Communication Inquiry* 10(5): 5-27.
- , 2001. "Race, Articulation, and Societies Structured in Dominance." Pp.38-68 in *Race Critical Theories – Text and Context*, edited by P. Essed and D.T. Goldberg. Malden, MA and Oxford, UK: Blackwell Publishers.
- Hargreaves, Allison. 2009. "Compelling Discourses – Colonial Violence and the Narrative Imperative in Feminist Anti-Violence Discourse and Indigenous Women's Writing." *Canadian Women's Studies* 27(2/3): 107-113.
- Harris, Cheryl. I. 1993. "Whiteness as property." *Harvard Law Review* 1707-1791.
- Henry, Frances and Henry Tator. 2006. *Racial Profiling in Canada: Challenging the Myth of a 'Few Bad Apples.'* Toronto, ON: University of Toronto Press.
- Hill, Richard. 1992. "Oral Memory of the Haudenosaunee: Views of the Two Row Wampum" Pp. 149-159 in *Indian Roots of American Democracy*, edited by J. Barreiro. Ithaca, NY: Akwe:kon Press.
- Hughes, Julia. 2012. "Instructive Past: Lessons from the Royal Commission on Aboriginal Peoples for the Canadian Truth and Reconciliation Commission on Indian Residential Schools." *Canadian Journal of Law and Society* 27(1):101-127.

- Hulan, Renée. 2012. "A Just Allotment of Memory: Witnessing First Nations Testimony in Isabelle Knockwood's *Out of the Depths*." *Journal of Canadian Studies/ Revue d'études canadiennes* 46(1):53-74.
- Ingram, Ted R. 2013. "Fighting F.A.I.R. (Feelings of Alienation, Isolation, and Racism): Using Critical Race Theory to Deconstruct the Experiences of African American Male Doctoral Students." *Journal of Progressive Policy and Practice* 1(1):1-18.
- Kalant, Amelia. 2004. *National Identity and the Conflict at Oka*. Florence, Kentucky: Routledge.
- Kaur, Min. 2014. "Honoring Gaswentah: A Racialized Settler's Exploration of Responsibility and Mutual Respect as Coalition Building with First Peoples." Pp.165-174 in *Politics of Anti-Racism Education: In Search of Strategies for Transformative Learning*, edited by G.J. Sefa Dei. Netherlands: Springer Netherlands.
- King, Thomas. 2003. *The truth about stories: a native narrative*. Toronto, ON: Anansi Press.
- Ladner, Kiera L. 2001. "Negotiated Inferiority: The Royal Commission on Aboriginal People's Vision of a Renewed Relationship." *The American Review of Canadian Studies* 31(1-2): 241-264.
- Lawrence, Bonita. 2002. "Rewriting Histories of the Land – Colonization and Indigenous Resistance in Eastern Canada." Pp. 21-46 in *Race, Space, and the Law: Unmapping a White Settler Society*, edited by S.H. Razack. Toronto, ON: Between the Lines.
- Lawrence, Bonita and Enakshi Dua. 2005. "Decolonizing Antiracism." *Social Justice* 32(4): 120-143.
- Maines, David R. 1993. "Narrative's Moment and Sociology's Phenomena: Toward a Narrative Sociology." *The Sociological Quarterly* 34(1): 17-38.
- Manore, Jean L. 2010. "The Numbered Treaties and the Liberal Order Framework." Pp.41-57 in *Volume 7: A History of Treaties and Policies*, edited by J.P. White, E. Anderson, J.P. Morin, D. Beavon. Canada: Thompson Educational Publishing.
- Mantena, Karuna. 2007. "The crisis of liberal imperialism." Pp. 113-135 in *Victorian Visions of Global Order – Empire and International Relations in Nineteenth-Century Political Thought*, edited by D. Bell. Cambridge, UK: Cambridge University Press.

- Martin-Hill, Dawn. 2004. "Resistance, Determination, and Perseverance of the Lubicon Cree Women." Pp.313-330 in *In the way of development: indigenous peoples, life projects and globalization* (Vol. 4), edited by M. Blaser, H.A. Feit, and G. McRae. London, UK: Zed Books.
- Marx, Karl. 1977. *Capital, a Critique of Political Economy, Volume 1*. New York, NY: Vintage Books.
- McCarthy, Theresa. 2010. "Dę'ni:s nisa' sgao' dę?: Haudenosaunee Clans and the Reconstruction of Traditional Haudenosaunee Identity, Citizenship, and Nationhood." *American Indian Culture and Research Journal* 34(2): 81-101.
- McCrone, David. 1998. *The Sociology of Nationalism*. London, UK and New York, NY: Routledge.
- McGregor, Deborah. 2011. "Aboriginal/non-Aboriginal relations and sustainable forest management in Canada: The influence of the Royal Commission on Aboriginal Peoples." *Journal of Environmental Management* 92: 300-310.
- McKay, Ian. 2009. "Canada as a long liberal revolution: On writing the history of actually existing Canadian liberalisms, 1840s-1940s." Pp. 347-452 in *Liberalism and hegemony: Debating the Canadian liberal revolution*, edited by I. McKay. Toronto, ON, Buffalo, NY: University of Toronto Press.
- Mcveigh, Robbie. 2008. "'The balance of cruelty': Ireland, Britain and the logic of genocide." *Journal of Genocide Research* 10(4):541-561.
- Miles, Robert and Malcolm Brown. 2003. *Racism*. London, UK and New York, NY: Routledge Taylor and Francis Group.
- Mohanty, Chanrda T. 2001. "Under Western Eyes: Feminist Scholarship and Colonial Discourses." Pp.51-80 in *Third World Women and the Politics of Feminism*, edited by C. Mohanty, A. Russo, and Lourdes Torres. Bloomington and Indianapolis: Indiana University Press.
- Monture, Patricia A. 2007. "Racing and Erasing – Law and Gender in White Settler Societies." Pp. 197-216 in *Race and Racism in 21<sup>st</sup>-Century Canada – Continuity, Complexity, and Change*, edited by S.P. Hier and B.S. Bolaria. Peterborough, ON: Broadview Press.
- , 2009. "Women and Risk – Aboriginal Women, Colonialism, and Correctional Practice." Pages 414-422 in *First Voices – An Aboriginal Woman's Reader*, edited by P.A. Monture and P.D. McGuire. Toronto, Canada: INANNA Publications and Education Inc.

- Morris, Glen T. 1992. "International Law and Politics: Toward a right to self-determination for Indigenous peoples." Pp.55-86 in *The State of Native America: Genocide, Colonization, and Resistance*, edited by M. A. Jaimes. Cambridge, MA: South End Press.
- Nandorfy, Martha. 2011. "Differentiating Liberating Stories from Oppressive Narratives: Memory, Land, and Justice." Pp.333-350 in *Storied Communities – Narratives of Contact and Arrival in Constituting Political Community*, edited by H. Lessard, R. Johnson, and J. Webber. Vancouver, BC and Toronto, ON: UBC Press.
- Norkunas, Martha K. 2004. "Narratives of Resistance and the Consequences of Resistance." *Journal of Folklore Research* 41(2): 105-123.
- Notes, Akwesasne. 2005. *Basic Call to Consciousness*. Summertown, Tennessee: Native Voices.
- O'Connell, Anne. 2009. "The Pauper, Slave, and Aboriginal Subject: British Parliamentary Investigations and the Promotion of Civilized Conduct (1830s)." *Canadian Social Work Review/ Revue canadienne de service social* 26(2): 171-193.
- Orbuch, Terry. 1997. "People's Accounts Count: The Sociology of Accounts." *Annual Review of Sociology* 23:455-478.
- Padgett, Gary. 2012. "A Critical Case Study of Selected United States History Textbooks from a Tribal Critical Race Theory Perspective." Ph.D. dissertation. University of South Florida.
- Pertusati, Linda. 1997. *In Defense of Mohawk Land – Ethnopolitical Conflict in Native North America*. United States of America: State University of New York Press.
- Polletta, Francesca. 1998. "Contending Stories: Narrative in Social Movements." *Qualitative Sociology*, 21(4):419-446.
- , 2006. *It Was Like a Fever – Storytelling in Protest and Politics*. Chicago, IL and London, UK: The University of Chicago Press.
- Polletta, Francesca, Pang Chen, Bobby Ching, Beth G. Gardner, and Alice Motes. 2011. "The Sociology of Storytelling." *The Annual Review of Sociology* 37: 109-130.
- Poole, Ross. 2004. "The Nation-state and Aboriginal Self-determination." Pp.91-104 in *The Fate of the Nation State*, edited by M. Seymour. Montreal, Kingston, London and Ithaca: McGill-Queen's University Press.



- Portelli, Allesandro. 1991. *The Death of Luigi Trastulli and Other Stories: Form and Meaning in Oral History*. Albany, NY: SUNY Press.
- Rand, Jacki T. 2002. "Primary Sources: Indian Goods and the History of American Colonialism and the 19<sup>th</sup>-Century Reservation." Pp. 137-160 in *Clearing a Path – Theorizing The Past in Native American Studies*, edited by N. Shoemaker. New York, London: Routledge.
- Razack, Sherene H. 2002. "Gendered Racial Violence and Spatialized Injustice: The Murder of Pamela George." Pp. 121-156 in *Race, Space, and the Law: Unmapping a White Settler Society*, edited by S.H. Razack. Toronto, ON: Between the Lines.
- Regan, Paulette. 2010. *Unsettling the settler within: Indian Residential Schools, truth telling, and reconciliation in Canada*. Vancouver, BC: UBC Press.
- Richardson, Laurel. 1990. "Narrative and Sociology." *Journal of Contemporary Ethnography* 19(1): 116-135.
- Said, Edward.W. 1993. *Culture and imperialism*. New York, NY: Vintage Books.
- Satzewich, Victor. 1994. "Who's In and Who's Out: Defining the Boundaries of the Imagined Community of Aboriginal People in Canada'." *International Journal of Comparative Race and Ethnic Studies* 1(1): 49-67.
- Scott, James.C. 1990. *Domination and the Arts of Resistance: hidden transcripts*. New Haven, CT: Yale University Press.
- Sharma, Nandita and Cynthia Wright. 2008. "Decolonizing Resistance, Challenging Colonial States." *Social Justice* 35(3): 120-138.
- Sharma, Nandita. 2015. "Strategic Anti-Essentialism: Decolonizing Decolonization." Pp.164-182 in *Sylvia Winter: On Being Human as Praxis*, edited by Katherine McKittrick. Durham and London, ON: Duke University Press.
- Shenandoah, Audrey. 1992. "Everything Has to be in Balance." Pp.36-42 in *Indian Roots of American Democracy*, edited by J. Barreiro. Ithaca, NY: Akwe:kon Press.
- Silagi, Michael. 1992. "Henry George and Europe: Precursors of Land Reform in Germany." Translated by Susan N. Faulkner. *American Journal of Economics and Sociology* 51(2): 247-256.

- Simpson, Jennifer S., Carl E. James and Johnny Mack. 2011. "Multiculturalism, Colonialism, and Racialization: Conceptual Starting Points." *The Review of Education, Pedagogy, and Cultural Studies* 33:285-305.
- Smith, Linda T. 1999. *Decolonizing Methodologies – Research and Indigenous Peoples*. London, UK and New York, NY: Zed Books Ltd.
- Smith, Andrea. 2005. "Native American Feminism, Sovereignty, and Social Change." *Feminist Studies* 31(1): 116-132.
- Smith, David A. 2009. "The Royal Commission on Aboriginal Peoples Transcripts Online." *Native Studies Review* 18(2): 135-139.
- Srivastava, Sarita and Margot Francis. 2006. "The Problem of 'Authentic Experience': Storytelling in Anti-Racist and Anti-Homophobic Education." *Critical Sociology* 32(2-3):275-307.
- Stasiulis, Daiva and Nira Yuval-Davis. 1995. "Introduction: Beyond Dichotomies - Gender, Race, Ethnicity and Class in Settler Societies." Pp.1-38 in *Unsettling Settler Societies – Articulations of Gender, Race, Ethnicity, and Class*, edited by D. Stasiulis and N. Yuval-Davis. London, Thousand Oaks, New Dehli: Sage Publications.
- Storey, Robert. 2014. "Pessimism of the Intellect, Optimism of the Will: Engaging With the 'Testimony' of Injured Workers." Pp. 56-86 in *Beyond Testimony and Trauma: Oral History in the Aftermath of Mass Violence*, edited by S. High. Vancouver, BC: University of British Columbia Press.
- Sunseri, Madelina. 2005. "Theorizing Nationalisms: Intersections of Gender, Nation, Culture, and Colonization in the Case of Oneida's Decolonizing Nationalist Movement." Ph.D dissertation, Department of Sociology, York University.
- Suzack, Cheryl. 2007. "Notes Towards Establishing a Property Interest in Aboriginal Culture." Pp. 217-234 in *Race and Racism in 21<sup>st</sup>-Century Canada – Continuity, Complexity, and Change*, edited by S.P. Hier and B.S. Bolaria. Peterborough, ON: Broadview Press.
- Switlo, Janice G.A.E. 2002. "Modern Day Colonialism – Canada's Continuing Attempts to Conquer Aboriginal Peoples." *International Journal on Minority and Group Rights* 9:103-141.
- Thobani, Sunera. 2007. *Exalted Subjects – Studies in the Making of Race and Nation in Canada*. Toronto, Buffalo, London: University of Toronto Press.
- Tilly, Charles. 1998. *Durable Inequality*. Berkeley, CA: University of California Press.

- Tupper, A. Jennifer and Michael Cappello. 2008. "Teaching Treaties as (Un) Usual Narratives: Disrupting the Canadian Commonsense." *Curriculum Inquiry* 38(5): 559-578.
- van Dijk, Teun A. 1993. "Stories and Racism." Pp. 121-141 in *Narrative and Social Control: Critical Perspectives*, edited by D.K. Murphy. Newbury Park, London, New Dehli: Sage Publications.
- Varese, Stefano. 2001. "The Territorial Roots of Latin American Indigenous Peoples' Movement for Sovereignty." *International Social Science Review* 2(2): 201-217.
- Wainwright, Joel. 2010. "On Gramsci's 'conceptions of the world.'" *Transactions of the Institute of British Geographers* 35: 507-521.
- Walker, Polly. 2003. "Colonising Research: Academia's Structural Violence Towards Indigenous Peoples." *Social Alternatives* 22(3): 37-40.
- Wallerstein, Immanuel. 1991. "The Construction of Peoplehood: Racism, Nationalism, Ethnicity." Pp. 71-83 in *Race, Nation, Class: Ambiguous Identities*, edited by E. Balibar and I. Wallerstein. London, UK and New York, NY: Verso.
- Weaver, Hilary N. 2009. "The Colonial Context of Violence – Reflections on Violence in the Lives of Native American Women." *Journal of Interpersonal Violence* 24(9): 1552-1563.
- West-Newman, Catherine L. 2004. "Anger in Legacies of Empire – Indigenous Peoples and Settler States." *European Journal of Social Theory* 7(2): 189-208.
- Whooley, Owen. 2006. "The political work of narratives: A dialogic analysis of two slave narratives." *Narrative Journal of Inquiry* 16(2): 295-318.
- White, Hayden. 1987. *The Content and Form: Narrative Discourse and Historical Representation*. Baltimore, Maryland: John Hopkins University Press.
- Whitlock, Gillian. 2006. "Active remembrance: testimony, memoir and the work of reconciliation." Pp.24-44 in *Rethinking settler colonialism – History and Memory in Australia, Canada, Aotearoa New Zealand and South Africa*, edited by A.E. Coombes. Manchester and New York: Manchester University Press.
- Wilson, Michael D. 2008. *Writing home: indigenous narratives of resistance*. East Lansing, MI: Michigan State University Press.

York, Geoffrey and Loreen Pinder. 1992. *People of the Pines – The Warriors and the Legacy of Oka*. Boston, London, Toronto: Little, Brown, and Company Limited.