

chapter 5

Governmental Rationalities and Indigenous Co-Governance: James Bay Cree Coexistence, from Mercantilist Partnerships to Neoliberal Mechanisms

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THE CHANGING FORMS OF colonial governance that have been dominant during recent moments of globalization have had systematic but diverse effects on relations between European settler states and regional indigenous peoples. Exploring how to analyze these indigenous–nation–state relations affords an opportunity to address questions posed by the volume editors about legitimacy in the context of globalization, particularly in settings where multiple and diverse kinds of polities, including non-state polities, are interacting. These increasingly common settings also pose challenges to the analysis of colonial governmentality, which I see as an aspect of globalization. I use *globalization* to refer to the post-Renaissance extension to non-European lands and peoples of several interconnected and modern institutions and practices: nation-states, science, market-dominated societies, and colonial differentiation with the superordination of Europeans.

Relations of governance in colonial settings occur not only through direct and indirect rule but also through the distinct coexistence or co-governance relationships that are formed where colonial governance does not simply subsume or use local governance forms to its own ends. In these situations, the ongoing governance projects and visions of non-state peoples actively coexist with colonial forms. In many contexts, non-state peoples survive as societies and polities and continue to pursue an array, albeit often more limited than previously, of their own historical and concurrent projects. They pursue these forms, which are adapted to work in the changing contexts of globalization. They often seek to maintain these

co-governance relations despite subordination and dispossession, suffering and loss. I argue that co-governance — which involves coexisting governance discourses, institutions, and projects — is important both in the historical record and in relation to the current forms of governance.

These diverse forms of globalization, colonial governance, and co-governance are each linked to fundamental issues of legitimacy in settler states. These issues arise because of the largely unexpected survival of indigenous societies in these states, which highlights the temporal priority of indigenous occupation and governance of lands claimed and encompassed by the states. The survival of indigenous societies and polities constitutes a continuing limitation on, and fundamental threat to, the legitimacy claims of settler states (see Alfred 1999). The priority of indigenous peoples' rights to the territory and governance of these domains has never been effectively dealt with — no less satisfactorily recognized, mutually negotiated, or enduringly settled — from the point of view of either settler or indigenous societies (see Tully 1995; Asch 1997; Alfred 2002; Scott 2004; Beier 2005; and Blaser et al., under review).

Legitimacy problems have been heightened in recent global governance settings partly because of the complexity of defining the extent of the relevant legitimating community, the compositional diversity of obvious community claimants, and the plurality of communications and world views among state and transnational non-state actors (Bernstein 2004). The legitimacy of settler states is problematic for similar reasons. In addition, problems arise because the colonial vision of an encompassing hierarchical community no longer carries the conviction it did when justifications for the supremacy of settlers were taken as more self-evident and authoritative than they are now.

Questions of legitimacy, in a political sense, are also closely implicated in the forms of governmental rationality and discourses that emerged in the modern history of Europe and in the ways Europeans formulated the constitution of individuals, society, political rule, and nation-states (Foucault 1991; Burchell, Gordon, and Miller 1991; Barry, Osborne, and Rose 1996). These governmental rationalities and mechanisms were developed not only within Europe but also in diverse settings of colonial governance. The colonial projects involved discourses legitimating the superordination of colonists over colonials, however mixed and inseparable these categories and persons were. These governmental discourses made certain kinds of colonial conduct and projects of domination appear normal and necessary, as well as legitimate.

The regional and temporal diversity of colonial settings and projects requires attention to the differing forms and effects of colonial governance in interaction with diverse pre-existing and emerging forms of regional and local non-state governance (see, for example, Escobar 1995 and D. Scott 2005, as well as analyses in Said [1978] 1991 and Bhabha 1994). Thus, although there are compelling continuities in the interrelated post-Renaissance histories of nation-states, science, market societies, and colonialism, there are also widely recognized and debated discontinuities, changes, successes, and failures in the histories of governance within and outside Europe. These complex relationships of diverse forms of governance at work in changing settings problematize how to analyze colonial governmentalities at particular times and places (D. Scott 2005).

These pervasive, diverse, and fragmentary processes also require setting colonial governance in relation to non-state peoples in ways that go beyond the latter's encompassment by and use in colonial governance. In David Scott's helpful account of analyzing colonial governmentality and his summary of its application to the analysis of colonial rule in Sri Lanka, he concludes by citing an 1830s call by Charles Trevelyan for a new form of rule to "set the natives on a process of European improvement ... They will then cease to desire and aim at independence *on the old Indian footing*" (cited in D. Scott 2005, 44).¹ Scott then formulates a project for analyzing colonial governmentality, "If we are to grasp more adequately the lineaments of our postcolonial modernity, what we ought to try to map more precisely is the political rationality through which this old footing was systematically displaced by a new one such that the old would now only be imaginable along paths that belong to new, always-already transformed, sets of coordinates, concepts, and assumptions" (ibid.).

This project is important and critical, but I think that it frames analyses of colonial governmentality too narrowly by limiting the scope to questions about how the "old footing" is displaced and how it comes about to "only be imagined" through the new. This formulation understates the problems of identifying long-term effects, and it limits the analysis of the relationships between other forms of governance and new governmentalities to the displacement or transformation of the former.

Colonial projects of displacement are often incomplete and disrupted. They have complex and contradictory consequences, and they involve relations to emerging forms of governance. In the contemporary world, including areas long subjected to colonial governmentalities and rule, we see numerous instances of situationally specific governance informed by

cultural, national, and religious projects as well as anti-colonial resistance. The projects are sometimes rooted in earlier visions and practices, albeit in complex ways. There are analyses in many of these settings of how old footings were transformed for new purposes, how old footings were invented in new contexts, and how these footings may be taken as “tradition” — that is, how the old comes to be imagined through the new. In my view, however, these accounts often do not demonstrate how governance can now *only* be imagined or even practised through the new.

This is the case especially among non-state societies, at diverse scales, even though they are being changed by and subordinated to colonial governance. I indicate below how contemporaneous forms of coexisting governmentalities and other forms of governance are not adequately analyzed solely by considering the effects of colonial governmentality.

There are other reasons for not excluding these relationships. If we ignore the distinctive trajectories and effects of other forms of governance as we develop critiques of the knowledge and power of colonial governmentality, we risk not examining the critical framework we ourselves use. We also risk ignoring alternative perspectives on governance that may arise from the ongoing and changing knowledge practices of those who are in subordinate positions.

Despite the long, widespread, and often harrowing successes and enduring effects of colonial governmentalities, it is important to consider the often diverse, fragmentary, hybrid, and contradictory, but also sometimes enduring mutual effects of the forms of governance with which they engage. These forms of non-state governance do not derive from the logics of colonial governmentalities. This understanding requires additional forms of analysis than those that are common in the study of governmentality in European history or its application to colonial rule. The analytical frameworks of colonial governmentality must be subjected to ongoing critical re-examination by considering other logics of governance and how these forms engage colonial governmentalities. In this chapter, I examine an example of these processes.

In my longer-term and ongoing research, I explore both the logics of a non-state form of governance and the forms of coexisting governance that develop between a non-state people and a colonial-settler state. I show how non-state governmental structures and projects are not solely imagined through new modern coordinates, concepts, assumptions, or subject identities; rather, they are effected through ever-changing old footings that serve modern projects. Here, I explore a part of that analysis, the relationships,

and the diverse and sometimes hybrid governance visions and practices that have existed and developed between Canadian and Quebec governance institutions in northern Quebec and a regional indigenous people, the James Bay Crees.

The Crees (a term I will use here to refer to James Bay Crees) are a hunting and an indigenous people who number sixteen thousand and occupy over four hundred thousand square kilometres. They have been tied to European nations and to world markets, initially through the trade in fur pelts, since the seventeenth century. More recently, they have been drawn into new national, transnational, and globalizing relations by the joint impact of expanding state administrations, large-scale natural resource developments, and nationalist movements, as well as by engagements that they have initiated with encapsulating societies.

I show that in the 1930s and 1940s, as nation-state administrations established their first presence in northern Quebec, specific forms of colonial mercantilist governance were used by state and trading company officials and also that mutual forms of co-governance emerged as a result of Cree initiatives. In the 1970s, when large-scale natural resource developments were initiated in the region in the context of Quebec nationalist projects to ensure state legitimacy, the mercantile co-governance relationships changed. State negotiators and bureaucrats came to see them as the specific demands and requirements of the Crees, rather than as a part of ongoing state-Cree relations. As a result, the complex relationships of the earlier period were reduced or ignored as development governmentality was deployed. But Crees responded in terms of co-governance. More recently, with the emergence of neoliberal governmentality, state accommodations to Crees now occur in the context of the active promotion of neoliberal co-governance mechanisms. The assumption, then, is that market dominance in conjunction with satisfying the Crees' economic needs will finally ensure Cree modernization and their consistent support for conditions essential to the legitimation of the state and its resource exploitation projects.

The analysis, thus, extends not only to the discursive agency and institutions of states, markets, and civil society but also to relations between them and the discourses, logics, and projects of peoples who are not wholly encompassed by modern governmentality. I summarize how Crees significantly shaped mercantilist co-governance processes, and how their vision of co-governance gave it form (see Feit 2005). I note how in the 1970s they negotiated accommodations and modifications to developmental governance, introducing their ideas and needs into the modern structure of a

highly legalized land claims agreement. Although this effort had diverse effects, many being part of colonial projects of governmentality, Crees also made this process affirm the continuity of their co-governance. The failures of the implementation of this agreement from Cree perspectives brought some of its adverse effects into clear perspective and led to Cree challenges to new neoliberal resource development and nationalist projects in the 1980s and 1990s. These challenges demonstrated to state institutions and corporations, among others, that Crees had not accepted new identities and conduct as citizens, which were attributed to them in the prevailing governmental projects. Also central to these conflicts were the developing international legitimacy needs of state projects and increasingly transnational state corporations. Cognizant of these needs, the Crees effectively carried their projects of opposition into transnational arenas in the 1990s.

Although neoliberal governmentality was increasingly the context for many of these conflicts, the dominance of neoliberal governance also opened new opportunities to Crees for specific forms of national recognition and participation in economic development through new neoliberal relationships. Neoliberalism also shifted the terrains of ongoing struggles for co-governance (see Feit, in press).

I undertake this analytical case study by using several shifting perspectives rather than by offering a general model of colonial governance or its analysis. The case study is ethnographic in that it implicates events and interpretations of daily lives as well as political-historical moments, although the ethnography is thin description.

I choose not to offer a general model because to do so would risk bringing the analysis within the globalizing histories and stories of progress or improvement, or within the knowledge practices of equally modernist universalizing critiques of improvement and modern governance. To develop a general model risks locating the presence and the possibilities of contemporary and historical non-state societies and actors in an analytical space shaped solely by modern histories, nation-states, transnational markets, and governmentality — that is, in universalizing discourses and practices. In these spaces, non-state societies seem tied to the past, implausible in the present, and with no real, enduring, and distinctive possibilities for the future. I do not fully avoid these risks, but I seek to moderate them by keeping to a situated and ongoing case and trying to offer an account that may be read, and hopefully used, by people in different polities and contexts.

Co-Governance and Legitimacy

In this analysis co-governance is any non-exclusive form of governance by which both a distinct non-state people or entity and a nation-state exercise control, albeit not equally, over the conduct of relations among their societies, within domains of action, or with nature. It can comprise discourses, practices, visions, and institutions.

For the non-state peoples that concern me here, this definition presupposes not only an effective governance capacity but also an enduring ability to reproduce social lives not founded on the presuppositions of modernity. For example, the radical distinctions between individual citizens and representational processes that characterize “Euro-American” forms of rule and democratic nation-states do not apply in James Bay Cree society. Crees envisage societies of inherently social individuals embedded in networks of family and kinship that make human lives possible. Indeed, for Cree hunters, social networks and kinship, and relations articulated by analogies to kinship, permeate all aspects of social life and the world, including governance and legitimacy. Like many other indigenous societies, Crees draw on traditions of direct and consensual, not solely representative, governance (see Alfred 1999). These differences are important and modifiable.

These practices also shape the way that distinctive capacities for self-governance and co-governance are envisaged in the context of relationships with nation-states. Co-governance in this sense does not depend on formal recognition or systematic reconciliation with state law or sovereignty. For this reason, co-governance might be called messy when it is looked at from the point of view of the system of nation-states. Co-governance in this sense can also be messy in other ways, because the governance logics that are in relationship are typically not commensurable. Co-governance is not often a project of state governmentality.

A variety of co-governing discourses, practices, and institutions can develop to express and give effect to the differing relations of governance that exist between state institutions and practices and non-state peoples. These may be new or they may be altered or emerging forms of what were previously state or self-governing practices that are now taken up in relational governance activities.

Here, co-governance is also messy in that there may not always be a clear separation between the discourses, practices, and institutions of co-governance and those of either the nation-state or non-state societies. They may not always be clearly distinguished or separable from state and

non-state forms by their practitioners, nor may they always be separable in a grounded analytical sense, although anyone might make the distinction in a more abstract form.

In addition, these areas of convergence need not develop into an encompassment of non-state governance by the projects or visions of state governmentalities. Where this absorption has occurred, it would mean the existence of a form of state or colonial rule rather than a coexisting co-governance arrangement. This messiness partly explains why co-governance often is not recognized or acknowledged, why it is often denied when questioned, and why it can be a recurring site of contestation.

This lack of recognition and denial by practitioners is reflected in analytical ambiguities. Co-governance is often assumed in analytical settings to be ephemeral and unimportant, a transition stage in the advance of state or colonial rule. But the analysis must consider what people are doing and saying in their everyday lives, not just when they express formal reasons or justifications. Nor can it be assumed that situations can be fit into pre-existing analytical categories. By this test, messy co-governance may prove to be surprisingly complex and important, as in the circumstances I analyze here. Indeed, the blurred boundaries between messy co-governance and state and non-state societies' governance may help to explain the durability and wide-reaching effects of co-governance.

This messiness of co-governance has important bearings on legitimacy. Nation-states and indigenous polities have different and diverse forms of legitimacy that follow differences in their forms of governance, all the while being tied to each other. When legitimacy involves claims that implicate relations to others who are partly outside the nation-state communities, ambiguities of state legitimacy readily come into focus.

Within indigenous polities, legitimacy is inevitably different. For Crees it is founded in kinship and personalized kinship-like relations and consensual processes. Although the legitimacy ideas and practices of Crees and many other non-state peoples can in many respects be characterized as normative rather than legal or rational, the foundations of their governance may not be fully encompassed by the ideas of normativity or law and rationality. Legitimacy for Crees, for example, is inseparable from personally lived histories of relationships. Many Cree hunters and elders do not radically separate themselves or their knowledge from the world that is known but understand themselves as embedded in it. As a consequence of this epistemology and cosmology, one that does not follow from post-

Renaissance ideas of modernity or social science, legitimacy is not simply about what should be or what is formally arranged in law or political thought; rather, it is historically and experientially rooted in what has been and is. Thus, Cree legitimacy statements about co-governance with the state are not simply about an “ought” or a “right,” they are also about relationships that “are.” Crees have experienced enduring co-governance; they do not just desire it, nor do they seek agreement with others through reasoned accord to promote it. Its history is known even if it was and is contested. There is neither a claim to universal or rational truth nor a search for normative or constitutional agreement. Rather, they are making a statement about knowledge that is situated in relationships of particular times and places and true in the lived present. Moreover, this statement is always subject to change.

It is important, therefore, to consider not only how legitimacies of nation-state and non-state communities differ but also how they mutually implicate and complicate one another. Co-governance is a context in which these aspects of the messiness of legitimacy come to the fore. In the balance of this chapter, I explore issues of colonial governance and co-governance and the question highlighted by the volume editors in the Introduction: how do communities retain and gain influence and control over the non-local decisions and projects that affect them?

Governance and Messy Co-Governance: Historical and Ethnographic Perspectives

In preparing affidavits for a court case in 1999, elderly James Bay Cree hunters and women talked about the effects of commercial forestry on their hunting territories, the family hunting lands into which the Crees divide their region, and important forms of Cree governance.² They commented on how their tenure and governance were recognized by actions, institutions, and instruments of governments. Charlie Coon Blacksmith said,

About 45 years ago a representative of the Department of Indian Affairs visited Simon [Metabie] and me and confirmed that we were Ndoho Ouchimauch [hunting leaders or, more literally, land bosses] of this territory.³

I have never consented to any [forestry] cutting on my land. I did hear that they were coming into my land from our Band council but

I have had no word on where or how they cut. This is not right. As *Ndoho Ouchimau* I am responsible for the land. If they want to cut, then the company must understand that I manage the forest and I protect it. They must talk to me and listen to my expertise ...

As far as I can tell, none of the big companies operating in Eeyou Istchee [Cree land] are obeying the rules of the James Bay and Northern Quebec Agreement [1975]. Until they do so they should not be allowed to cut any more timber. It is simple to enforce this. The Agreement says the government and developers must consider our way of life and protect the environment. They have not done so. (Charlie Coon Blacksmith, 7 July 1999, trans. Charlie Mianscum)

This view that Cree tenure and the roles of hunting leaders in governing their lands were both recognized and also ignored by governments was echoed by others such as Christine Saganash, whose family lands were more remote and had not yet been cut. She recalled one of the earlier government recognitions of Cree tenure and governance:

I remember so many years ago when Indian Affairs [agents] came to draw boundary lines [i.e., to map the boundaries of the hunting territories for use of the Beaver Reserves system then being established jointly with the Crees]. Allen [her late husband] was already the tallyman [a *Ndoho Ouchimau*]. They gave him a badge to show he was a game warden. I still have that badge and carry it with me ...

They must listen to us and respect us. We are the owners of the land. We are part of it. To cut our land is to destroy us and our way of life. (Christine [Jolly] Saganash, 22 July 1999, trans. Johnny Cooper)

Crees, thus, see a continuity that stretches from the first active presence of government agents in the region and the setting up of beaver reserves between the early 1930s and the 1950s through to the James Bay and Northern Québec Agreement, a modern treaty negotiated by the Crees and the governments in the 1970s, and present conflicts over the use of lands and resources. This continuity exists through ongoing Cree control, use, and protection of the land; through ongoing conflicts; and through continuing, repeated, and renewed recognitions of Cree tenure and governance by governments. Some of these include the distribution of badges symbolizing *Ndoho Ouchimau* authority for Crees, the mapping of their land tenure units for use by new joint conservation institutions, and

the recognitions and protections declared in the five-hundred-page modern legal agreement that the Crees signed with the government in 1975.

These Cree histories shape the Crees' interactions with governments and nation-state institutions, and they highlight how government actions lack legitimacy because they fail to fulfill mutual obligations and Cree knowledge. During the period from 1931 to the 1960s, there were numerous recognitions in government records of Cree governance and contemporaneous co-governance by Crees and Canadian state institutions. The recognitions were expressed, albeit sometimes partially or with hesitations, in personal and official discussions and correspondence among government bureaucrats and fur traders and with Crees. They are also found in inter- and intragovernmental policy statements, reports to Parliament, legal documents, and Orders-in-Council (see Feit 2005).

Recognitions of Cree governance and co-governance were also part of the ongoing lived experiences of Crees and state agents. They were put into practice in a myriad of procedures and relationships through which government agents, fur traders, and Crees interacted year after year to bring about the recovery of beaver populations in the region. These were not only bureaucratic but also personal practices and experiences. For example, the meetings between government managers and Cree hunting territory leaders to mutually agree on the allocation of annual beaver harvest quotas to each hunting territory were social and personal. Decisions about allocations were partly joint and partly made among the Crees themselves. They required government administrators and Cree leaders to know the individuals they were dealing with well. The government agents had a limited understanding of how trapping was done and how it could be done to conserve beaver. Cree hunting leaders reported the number of beaver lodges on their territories, which was the basis for the agreed upon quota, but leaders were varied in their skill and the effort they put into gaining this knowledge. The individual hunters on a given territory were varied in their trapping skills and efforts and, therefore, in how many beaver they were likely to catch and how many their families needed. Each of these considerations affected how allocations were made. The families of hunters who hunting leaders agreed would use a territory then lived at the same camp site with the leader's family for up to nine months of the year. Thus, governance of beaver reserves not only required extensive co-operation, it also personalized the official government agents' relationships. In addition, it demanded the extension of aspects of state and trading company administration into some parts of the social and personal lives of the Crees.

Thus, the hunting territories and Ndoho Ouchimauch were key Cree governance institutions that became the central means of government initiatives for the conservation of beaver.⁴ Governments developed modified administrative bureaucracies for beaver conservation by working closely with and adopting fur trade and Cree traditions and practices. Governance of lands and resources to promote beaver conservation was a process of state governance and an exercise of Cree governance, and it required the creation of new joint forms of hybrid co-governance, like the joint quota meetings and allocation processes. When a government agent met a Cree hunter to mutually agree on a beaver quota that the Cree hunters would respect and generally conform to over the course of the next year of trapping, the agreement was based on Cree knowledge. The hunting leaders still regularly adjusted the actual harvests to fit what they knew was happening on the land by using hunting leadership practices and institutions. Cree people could understand this arrangement as one of partnering and respecting government management, as well as exercising and sustaining older and continuing Cree forms of land governance. In these respects, it was a mutually respectful co-governance.

When the governments withdrew from the management of beaver reserves in some parts of the region in the 1960s and 1970s, Cree hunting territories and Ndoho Ouchimauch continued, and they are still being practised by Crees today, although the practices continue to be altered as circumstances change. These Cree governance practices have, thus, survived the long period of colonial governance.

Governance of Beaver: Mercantilist Governance as Limited Interventions and Personal Relationships, 1931-70

The idea of restoring beaver populations was suggested by Crees. The ideas and practices that emerged and made this idea attractive to governments and trading companies, however, were cost efficiencies, future profits, and defining territorial claims, as well as the management and pastoral care of the Crees and the beaver (see Feit 2005). The forms of governance developed had many features that were common to mercantilist forms of governance that were characteristic of pre-eighteenth-century Europe and colonization (Foucault 1991; Burchell, Gordon, and Miller 1991; Rose 1996; D. Scott 2005).⁵ Among its characteristics, mercantilist governance aimed to preserve the wealth of governments, it depended on the use of

laws and regulations, and it modelled its project on family economy (see Foucault 1991, 97-99).

The beaver conservation project was characterized by tension on the one side between a conception of preserving the Crees in a condition of economic and social self-sufficiency and self-governing autonomy, which included re-establishing the conditions of greater self-sufficiency that existed in the past. This objective was pursued through the support of long-standing Cree tenure and leadership institutions and the passing of laws that limited the access of outsider trappers to the region. On the other side, there was a more liberal project of improving the Crees by advancing their "inevitable development." But it was traditional self-sufficiency and the partly mercantilist rationales of economic extraction, limiting costs, accommodating state governance to local conditions, and expediency that prevailed.

The state project was, therefore, narrowly focused. There were no significant efforts to redeploy Cree labour or to take over Cree lands to exploit other resources. Using and strengthening Cree tenure and governance over hunting territories and leadership continued the long "traditions" of the fur trade compact of "partnership," which had emerged over three centuries. This partnership had endured because of the super profits it often provided to the traders and because of the conditions Crees negotiated for their energetic participation in the fur trade (see Francis and Morantz 1983). In short, mercantilist types of governance had a long history and were deeply embedded in the regional ideas and practices of both Crees and non-Natives. Neither sought to radically transform local tenures, local leaders and governance, the socio-religious universe, or the way of life of the Crees.

In the 1930s the partnership in conservation also reduced the costs of the centralized federal bureaucracy because increased beaver catches and meat and higher incomes from pelts lessened Cree demands on government assistance. In addition, managing beaver with Cree tenure and governance reduced enforcement costs and was a key to the Crees' active participation. Although nation-state institutions also claimed the land and resources as their own, government agents only occasionally tried to change Cree control of — or claims and access to — land and game (see Feit 2005). The governance project depended on and worked through the personalized social relations that Crees and government agents were developing.

Although there were visions and practices of governing the Crees as a society among state agencies and initiatives, the cooperation of the Crees could not be advanced by calling on them as citizens or as Crees or Indians *per se*. Indeed, only the term *Indian* would have been a jointly recognized category of self-reference for Crees during this period. Cooperation was secured through gaining the support of individuals within the community and through family leadership and kinship networks. This support was founded on recognizing and supporting a unique Cree relationship to the land and other Crees that was expressed in the governance of territories and consensual decisions, as Charlie Coon Blacksmith and Christine Saganash insist. As their views indicate, it was not an effective form of indirect rule. Crees exercised a strong sense of personal and collective autonomy.

In addition, it was a project whose subjects or objects, depending on one's perspective, were not only Crees but also beaver and the land. For government agents and traders, aiding beaver recovery was an exercise in managing natural animate objects and a means to economic ends. For Crees, aiding beaver expressed the inseparability of human societies and what modern Europeans call nature, the land and animal persons. Beavers were social beings and subjects for Crees. The distinction was obscured in the everyday practices of the governance of beaver — where they were treated as natural objects or social beings. But the difference is important because, for the Crees, these governance practices established relations to game and lands as social beings that had value distinct from human projects and a worth in and of themselves (as Charlie Coon Blacksmith indicates above). This key ontological difference reappears throughout many subsequent Cree-state relations (see below).

Thus, governance of beaver reserves did not create or depend on shared understandings of impersonal rules, nature as an object, abstract liberal individuals, or social conditions managed by experts. In this respect, too, the governance project did not dramatically reconstruct the society or the identities of Crees. Rather, Crees now extended their forms of relating to the land as a living society, relating to others in egalitarian ways, and treating individuals as socially connected, which they had been applying to traders during the fur trade, to interactions with the representatives of a nation-state. This limited but did not eliminate changes to themselves.

The personal and social autonomy of the Crees, and the histories and goals of state governance in the region, thus created the relations of governance that gave substantial form, albeit a messy one, to effective and enduring co-governance. A space of social partnership and spaces for

autonomies, tensions, and conflicts developed that linked, but did not synthesize, the several distinct forms of non-state governance and governmental rationalities that coexisted. The legitimacy of this partly colonial co-governance partook broadly of both Cree practices and state forms, and many of its ambiguities were well recognized by Crees and government agents (see Feit 2005).

Developing Land and the Crees to Legitimate the State: Transforming Regional Governance, 1971-90

Co-government during the long period of beaver reserves shaped Cree responses to state and industrial projects that threatened their lands in the 1970s. While changes to forms of governance had been underway for several years in the region (see Feit 1985), a significant break occurred when the James Bay Hydro-Electric Project was initiated in 1971 without Cree involvement.

Since the story of Cree opposition to hydroelectric development plans, the court cases they initiated, and the negotiated treaty has been widely told, I will limit my analyses to the governance and legitimacy aspects (see, for example, Richardson [1975] 1991; Salisbury 1986; Vincent and Bowers 1988; Feit 1989; Grand Council of the Crees 1998; Gnarowski 2002; Gagnon and Rocher 2002; Blaser, Feit, and McRae 2004a, 2004b).

Developmentality: A Challenge to Co-Governance

When the Government of Quebec announced the James Bay Hydro-Electric Project, it legitimated its action by referring to the need for development. After the Second World War, development became a central discourse and practice of domestic and international governance. States abandoned the discourses of early twentieth-century colonialism in favour of ideas and practices that fit with the accelerating international decolonization movement and with the world leadership responsibilities of the United States and its allies, such as Canada, which saw themselves as never having had colonies (Sachs 1993a, 1993b; Escobar 1995; and, within this series, Streeter, Weaver, and Coleman 2009).

Development discourse made new states into underdeveloped ones, thereby legitimating as necessary and benevolent resource exploitation projects and economic intrusions that were already established or newly offered by developed states and international market institutions. Consequently,

globalizing exploitation and domination continued through partly new governance instrumentalities (see Ferguson 1990; Sachs 1993a, 1993b; Escobar 1995). It was also a form of governance that was continuous with the developing governmental rationalities that Foucault called *governmentality* and described as emerging in European nation-states throughout the nineteenth and twentieth centuries (Ferguson 1990; Escobar 1995; Burchell, Gordon, and Miller 1991; Barry, Osborne, and Rose 1996).

Deployed within Canada, development discourses and governance envisaged the country as both a developing and a developed nation: it was a raw materials supplier to the expanding US economy on the one side and a home to businesses and middle classes that were expanding and drawing resources and sometimes labour from Canadian regions or hinterlands on the other. Inside Canada, development discourses and practices were also tied to national projects and regional development programs that transferred some federal economic resources to regions, including parts of Quebec, for social and economic development. These were intended, in part, to help bind a disparate and geographically challenged nation-state that existed adjacent to a powerful neighbour.

In Quebec, development discourses and practices readily joined with those of decolonization, which were accelerating with the Quiet Revolution of the 1960s. Quebec francophone elites actively moved into business, industry, finance, and state-owned corporations to wrestle control of the Quebec economy and state institutions away from a largely English Canadian class elite. The discursive practices were especially powerful from the 1960s onward, when Quebecers started to shed their rural and religious self-image and embrace the urban and industrial expansion that had already been underway for several decades.

The James Bay Hydro-Electric Project was initiated by a federalist Quebec government, in part to reassert the province's governance and legitimacy over its domain after the October Crisis. During this episode, separatist violence was countered by Prime Minister Pierre Elliot Trudeau sending Canadian army troops into the streets of Montreal (Gourdeau 2002, 18; Ciaccia, reported in Wilkinson and Masella 2002, 218).

Development as the rationality of governance, when addressed to Crees who were not fully part of national polities or identities, was a radical break with the regional histories of co-governance. It cast the Crees in ways that echo some of the effects of development discourse as it is deployed in the Third World (see Ferguson 1990). It redefined Cree hunting, land use, tenure, governance, and co-governance as underdeveloped and

backward. It defined a massive industrial hydroelectric project as a response to the social and economic needs of twelve thousand Cree men, women, and children, most of whom lived on the land as subsistence hunters and fur trappers. To incorporate Cree society fully into national politics, the development discourse envisaged and initiated broad-scale transformations. It built transportation and communication infrastructures for resource development projects that facilitated government access to and increased control of James Bay lands for state and market purposes. It had the effect of significantly expanding governmental administration and services to all Crees in the region. And it made all of these changes appear to be an apolitical process of inevitable benefit that was done both for the region's Cree inhabitants and for the ordinary citizens of urban Quebec and Canada.

From a Cree point of view, the hydroelectric project was a direct challenge to long-standing relationships and reciprocal obligations and a denial of an effective Cree voice in the governance of the region. When the Crees presented their case in a court action against the project and governments in 1972 and 1973 (see Richardson [1975] 1991 for a sample of Cree witness statements), the presiding judge understood the thrust of their views. He ruled that Cree hunting and fishing constituted a "way of life" that the Cree wish to continue, that they "have a unique concept of the land" and that "any interference therewith compromises their very existence as a people" (quoted in *ibid.*, 298; see also Malouf 1973). By taking up the discourse of a way of life and of its inseparability from the land (see Christine Saganash above), the judge effectively rejected the colonial discourses of underdevelopment and backwardness and the subordinating relations that they implied. His decision forced Quebec into negotiations with the Crees. Many Crees saw the court ruling as recognition of their unique ways of using, governing, and protecting their lands and as a re-affirmation of their co-governance relationships with Canada and Quebec.

Negotiating to Clarify State Legitimacy and Re-Envisaging Relationships as Governmentality

In the negotiations that ensued, Quebec's senior negotiator said the province's goal was legitimacy and territorial integrity. The aim was "to affirm finally Quebec's presence throughout its entire territory" so that Quebec's "jurisdiction will be established in a precise and definitive manner" (Ciaccia [1975] 1998, xiii, xv). The negotiations that developed in 1974 and

1975 were, thus, focused on clarifying and transforming both legitimacy and co-governance.

Part of the solution to the legitimacy problem for governments was an insistence, as in many of the much earlier Canadian treaties, that the Crees “cede, release, surrender and convey all their Native claims, rights, titles and interests, whatever they may be, in and to land in the Territory and in Québec” (Quebec [1975] 1998, section 2.1). This “classic” provision in the agreement was thought to reduce uncertainties about the legitimacy of settler states’ rights within the law and the political regimes of sovereignty, but the fundamental problem of settler-state legitimacy was not removed because it was tied to the issues of coexistence and co-governance.

The senior negotiator for the state hydroelectric corporations retrospectively highlighted the urgency of clearing threats to the construction of current and future development projects through the agreement and how this hinged not only on clarifications of legal recognitions or political sovereignty but also on broader relations. “The agreement was supposed to be global, lasting, and without appeal. It was supposed to put an end to Crees’ Aboriginal claims and to give approval to the hydroelectric project ... Moreover, it was supposed to propose regulations for future development projects and ensure a satisfactory social climate” (Couture 1988, 51, trans. Lise Feit). The government sought to use the agreement with the Crees to remove the conditions for “a social climate unfavourable to development” (Couture, cited in Wilkinson and Masella 2002, 218). What governments sought was not active Cree participation and co-governance but to create a social contract, a new governmentality, the result of which would be that the Crees would not oppose development (Couture 2002, 67). This matter could not be settled by laws: it was a matter of Cree conduct and, therefore, of relationships.

The governmental rationality implied by these broad goals was that Crees were now primary objects and subjects of the project of regional governance and transformation. Thus, schooling, health care, the judicial system, local government institutions, transfer and compensation payments, forestry, and mining were discussed, often at the Crees’ insistence, with the aim of modifying them to better meet Cree goals. For the government, however, they were means by which the Crees would develop and change to accommodate government and market interventions in the region (see, for example, Ciaccia [1975] 1998). This change of governance was not systematically explicit to those who were involved on different “sides.” It was these governmental rationalities, however, that significantly

shaped government and corporate strategies during the negotiation of the James Bay and Northern Québec Agreement.

Cree negotiators saw the conflicting visions in the negotiations, and they spoke of these differences and constantly challenged them. For example, they contested the assumptions of government negotiators that final authority rested with the state and that expertise was possible without living extensively on the land.

Cree goals and visions were partly recognized by Quebec and Crown corporation negotiators, but they were not recognized as a differing vision of governance. Rather, they were cast as specific conditions that would “absolutely [have to] be part of an agreement,” otherwise an agreement would probably not be possible with the Crees (Couture 1988, 51, trans. Lise Feit). This position did not recognize that Cree aims, understood broadly, constituted a renewed relationship that was still a partnership in co-governance.

According to a senior Cree negotiator, the agreement did include, at the Crees’ insistence, “provisions respecting local and regional autonomy, self-determination, and lands” (Awashish 1988, 43), including self-government, protection of a traditional way of life on the land through recognition and support of hunting and trapping, socio-economic development, and modifications to the project aimed at limiting its impacts (*ibid.*, 43 and 44). Crees thought that the concessions governments made in the agreement would allow them “to decide, to a large extent, upon the course of their future, to be self-sufficient and self-governing people and to have an important role in the development, management and administration of lands and resources within their homeland,” as they had in the past (Awashish 2002, 161–62).⁶ It “was meant to bring about the sharing of powers and responsibilities for the governance of *Eeyou Istchee*” (*ibid.*, 163), and it, therefore, was thought to hold out the prospect that a partnership in co-governance could continue in the new arrangements.

But Crees also negotiated in the realization that “the hydro-electric project could be constructed with or without our consent,” because court actions would drag on for years as construction continued (Awashish 1988, 44). Under these exceptional pressures, the Crees had to accept less than would have been the case under other circumstances. Nevertheless, Crees had confidence in their ability to sustain their governance, as Charlie Coon Blacksmith’s 1999 comments show nearly twenty-five years after the agreement. His statement was made for both the courts and younger generations of Crees who must carry on today.

Each of these visions — Quebec, Cree, and that of some analysts — has been disappointed to date. Continuing co-governance, governments' and analysts' expectations for comprehensive modernization among Crees, and expectations of a "peace" with the Crees (attributed to the then president of the James Bay Development Corporation by Couture, cited in Wilkinson and Masella 2002, 218) have substantially failed.

But at the same time, many development projects have proceeded without systematic restraint, and Quebec and Canada government agencies as well as corporations have effectively occupied most of the lands they wanted. Nevertheless, Cree societies with daily ties to lands have survived, and not all state projects have succeeded as Crees have found continuing and new ways of asserting their role in governance.

Logics of Governmentality: Seeking to Govern the Crees while Ignoring Commitments and Relationships

There is little that at first look appears systematic in the implementation of provisions of the agreement. Diverse government agencies implemented some provisions carefully and cooperatively, failed to implement others, implemented some without Cree participation, and implemented and then subsequently abandoned still others. Government agencies ignored some judicial rulings that the Crees succeeded in obtaining to enforce the implementation of particular provisions, subverted other court rulings, and sometimes implemented a ruling only to ignore it when the next similar action or decision had to be made. Some of the implementation outcomes are clearly related either to particular strategies of direct or indirect control or to interest-group liaisons with governments. Other failures are the effects of everyday bureaucratic mechanisms of governmentality.

These dispersed non-mechanisms are standard liberal governance forms and practices, but many were also given renewed impetus, commitment, and legitimacy by the growing prominence of neoliberalism in the decades following the agreement. Actions based on neoliberalism led to a reassertion and prioritization, contra the previously prevailing mix, of the "natural" dominance of interests and economy over "artificial" legal recognitions, negotiated commitments, and social benefits.

Contrary to the earlier forms of co-governance, the general effect of the implementation of the agreement was to marginalize Crees from government agencies and processes. Overall, the implementation tended to have the effect of disrupting Cree efforts at both cooperation and opposition by

its mix of strategic and arbitrary non-compliance along with partial implementation, all of which was “normal.”

After fifteen years of implementing the agreement, Billy Diamond, the chief Cree negotiator, concluded: “If I had known in 1975 what I know now about the way solemn commitments become twisted and interpreted, I would have refused to sign the Agreement” (Diamond 1990, 28; see also Moses, another principal negotiator, 2002, 231-33).

Philip Awashish (2002), another Cree negotiator, outlines the failures in implementation, and he notes many that could be called failures of co-governance in practice. Crees have been marginalized from decisions about the land, and the agreement provisions for land have “led to their exclusion in the overall governance of the territory and exclusion in economic and resource development and benefits” (ibid., 156). According to Awashish, the consultative and advisory bodies, such as those for the management of game and hunting and for the protection of the environment, “have not had any significant impact on the making of policies and enactment of legislation by Canada and Quebec” (ibid., 158); the provisions for economic development are “another dismal failure as Quebec continues to pursue and implement policies that exclude *Eeyouch* [Cree people] from direct participation and full benefits” (ibid.); the provisions for projects to remedy the impacts of hydroelectric projects and the “relationship between the *Eeyouch* and the James Bay Energy Corporation simply permitted and enabled the [latter] ... to control the type of remedial works necessary” (ibid.); “*Eeyou* communities are suffering from the soul-destroying effects of inadequate and ... [insufficient] housing, unsafe or lack of water supply and rampant unemployment” (ibid.); and “capital projects and agreements on funding arrangements have led to demands from the Government of Canada for an outright release from treaty obligations and commitments” (ibid., 158-59).⁷

Awashish goes on to say that “governments presently continue to exercise outright domination and control over lands and resources of *Eeyou Istchee* with the exclusion of *Eeyouch* in the exercise of power” (2002, 162). Reflecting on these lessons, Awashish writes: “Broken promises, lies and deceit perpetuated by greed in pursuit of profit and the exercise of power through exclusive domination and control are serious flaws of the heart and spirit. These flaws of the heart and spirit cannot be rectified by laws, treaties and constitutions of nations and governments. For the truth is that the essential element in any righting of wrongs eludes law and morality because justice lies in the will of the powers that be” (ibid.).

Along with his stinging condemnation, Awashish also notes that the agreement “has been beneficial, to some extent, in advancing *Eeyou* governance ... [through] institutions created pursuant to the Agreement ... controlled by *Eeyouch*” (2002, 162). “*Eeyouch*, through their local governments and other *Eeyou* authorities, are exercising a substantial control over their destiny and affairs ... In many instances *Eeyouch* of *Eeyou Istchee* have adopted a ‘just do it’ approach” (ibid.).

Globalizing Arenas, Neoliberal Governance, and a Renewed Prospect for Co-Governance?

Globalizing Arenas of National Development and Non-State Identities

The failure to implement the agreement created a crisis in co-governance for many Crees, who saw the failures as a denial of the enduring relationship between Crees and the state, which could not be cut simply by ignoring or denying it. These failures undermined the legitimacy of the new projects of the state because they ignored the multiple ways the Crees were related to, and were inevitably affected by and could also affect, those projects. The governments were ignoring not only norms but also history and Cree experience.

The Cree approach to doing it themselves, which itself was rooted in both Cree history and a response to neoliberalism, along with the organizational and political skills they developed and the limited but still significant financial resources they now control, allowed them to respond to major confrontations with the government of Quebec in the late 1980s and 1990s. The Quebec government sought to initiate new hydroelectric developments in the region and then to claim, in the midst of a referendum campaign on the separation of Quebec from Canada, that it could take the James Bay region and its inhabitants into an anticipated separate Quebec without the Cree having an autonomous collective decision in the process.

The hope of some government negotiators and policy makers that the Cree would acquiesce to a place in Quebec and Canada that denied them co-governance and accept extensive dependency on and subordination to state governance has not been fulfilled. This acquiescence did not happen, despite the opening of the territory to rapidly accelerated resource development and the resultant destruction and degradation of more and more of the most productive land; extensive socio-economic development

that has incorporated part of Cree economic activities into a wider economy; the nearly full implementation of public schooling and health and social services for Crees on provincial models that are adapted to the Crees' circumstances and culture; the continuing and partial sedentarization of Crees, albeit with a continuing tradition of extensive mobility on the land; the inclusion of Crees in delegated governance structures for limited self-rule; the establishment of a significant Cree administrative bureaucracy and cadre; the expansion of communications and mass media from the south; increased Cree incomes and consumerism; and significant but always inadequate levels of funding for community services that provincial and federal governments interrupt at opportune moments.

Denied an effective voice in Quebec and Canada, Crees have taken an active lead in developing engagements with publics, politicians, markets, organizations, and social movements transnationally (Barker and Soyuz 1994; Niezen 1998, 2003; Bernstein and Cashore 2000; Gnarowski 2002; Bergeron, under review). They have developed and used new transnational linkages and partnerships to disrupt development projects despite the increasing dependence of Canadian and Quebec governments and resource developers on international arenas. This dependence includes international markets for funding and capital, transnational energy and resource markets, establishing and maintaining strong managerial reputations in transnational capital and product markets, effective project planning that depends increasingly on coordinating transnational suppliers and resources, and international political and public recognition of their market brand, national security, and stable governance (see Feit, in press).

Detailed stories of Cree opposition to the proposed Great Whale River Hydroelectric Project between 1989 and 1994 and Cree opposition in 1995 to the claim that the James Bay region would be included in a separate Quebec rather than stay in Canada have been told elsewhere (Posluns 1993; Coon Come 2004; Craik 2004; McRae 2004; and Gnarowski 2002). Here, I note only the relevant features.

At the heart of the Cree challenge to the new hydro project was a sophisticated international campaign that linked indigenous rights issues to the environmental movement. Unlike in the 1970s, the primary Cree strategy was not to fight mainly through the Canadian courts but to build a campaign in the United States, where the energy would be sold, and in the United States and Europe, where the international investors whose capital Hydro-Québec needed to supplement state funds were located. The Cree leaders thought that if US contracts for the purchase of Quebec electricity

could be blocked, or if project timetables and cost projections could be disrupted, it would make the investment of capital in Hydro-Québec bonds more risky and less attractive to global financial markets, thereby making it harder for Hydro-Québec to profitably finance the project.

The Crees set out a multi-scale campaign and developed it as they went along. Many Crees and Cree leaders spoke to local and international environment groups in the United States, built campaign alliances with national and international groups that opposed the project on environmental and social grounds, and cultivated understanding, support, and long-term personal friendships with activists, politicians, and supporters. The campaign used the Cree experience of the effectiveness of personal relationships to build movement and organizational alliances (see Craik 2004; McRae 2004). The US environmental campaign was so successful that a significant number of new US members joined the environmental group that was the US campaign's lead organization (Craik 2004) and, thus, pioneered new linkages between indigenous issues and the environmental movement.

Some time after the New York Power Authority cancelled a large contract with Hydro-Québec, the premier of Quebec announced that the Great Whale project would be delayed indefinitely.⁸ The failure of the standard panoply of state governmental rationalities to reshape and limit Cree conduct and identities to those of nation-state citizens was explicit in a public outburst by a Quebec government energy minister during the campaign: "Yes, I blame [the Crees] for what they've been doing. I blame them for discrediting Quebec all over the world. Do you think a Quebecer can accept that? I don't think so. Are they Quebecers or not? They live in our territory. They live with us, they work with us, and they're penalizing Quebecers ... That's what I cannot accept and I will never accept" (*The Gazette*, 1 April 1992; and the film *Power* 1996).

Since then, Hydro-Québec has opened permanent offices in New York and Europe. The Cree campaign changed the strategies of governments and corporations transnationally, as well as those of social and environmental movements.

Shortly after the decision that cancelled the Great Whale River project, the referendum campaign on whether Quebec should separate from Canada went into high gear, and the Crees were drawn into it. They argued that they could not be incorporated into an independent Quebec against their will and that they were a nation with indigenous rights. They also argued that their lands would not necessarily become part of an independent

Quebec should Quebecers separate from Canada (Grand Council of the Crees 1998), again asserting that they were not simply citizens.

The Crees commissioned a public opinion poll that showed that the percentage of Quebecers who supported separation would be significantly lower if a separate Quebec would not include the northern Cree and Inuit lands (Gnarowski 2002). Some Cree leaders were told that this survey was one of the factors that influenced the federal government to argue more publicly against separation. The Crees' challenge threatened the *intégrité territoriale* of a sovereign Quebec, a fundamental tenet of the Quebec nationalist project. Northern Quebec was also critical to Quebec sovereignty because it was a vital source of Quebec-controlled energy resources, and hydroelectricity is one of Quebec's major export commodities. The challenge from an indigenous group also threatened to affect international recognition that a separate Quebec would need to gain recognition and join the ranks of legitimate sovereign states, as an extensive Cree publication showed (Grand Council of the Crees 1998). When the referendum to separate was defeated by the narrowest of margins, the Cree leadership thought that its campaign had played an important role in that outcome (Gnarowski 2002).⁹

These campaigns expressed in new forms how Crees continued to assert their co-governance of northern Quebec, how their governance could not be radically separated or denied, and how they could succeed in making their governance role effective at critical junctures. Co-governance relations between the Crees and Quebec and Canada were ignored in many instances and subordinated by the daily operations of state institutions. But they could not be securely controlled at times that were critical for state institutions, when Crees strategically chose to have a say. Cree conduct was rooted in the longer history of co-governance, not by visions of the proper conduct of state and citizenry under neoliberal political thinking.

Neoliberal Governance, Participation, and Co-Governance

Neoliberal ideas and practices of governance that have become predominant since the 1980s significantly altered the forms and strategies of governance. In particular, they introduced new possibilities of devolved or shared governance between state institutions and non-state entities. As is widely noted, the neoliberal discourse of the market being the best way to run and organize human affairs shapes visions and practices that bring market

mechanisms more directly into state governance and bring former state activities into institutions of the market and civil society.

In the late 1990s, more of the key decisions that affected northern Quebec and the Crees were taken by private corporations and paragovernmental agencies that sometimes exercised significant responsibilities that had been transferred to them by governments. Often the preference for dealing with the Crees was to try to strike private deals, investment partnerships, or agreements at the local level rather than with better-organized Cree regional entities or political bodies. Consultations, when they were needed, were carefully managed processes that sometimes had little more than the appearance of participation. Concessions that were made as a result of consultations were typically wrapped in constraints that limited their utility, undermined implementation and accountability, and, indeed, were often tokens of participation intended to release corporations and agencies from any further obligations. Cash was often offered in place of concessions and as a potential marker of consent (see Feit and Beaulieu 2001).

When Hydro-Québec offered the opportunity for discussions, joint ventures, contracts, and jobs to local Cree communities and entities that would be affected by its newly proposed diversion of the Rupert River to expand its original hydroelectric project, it was initially successful in creating community-by-community negotiations. However, the Cree community at the mouth of the Rupert River then said it would no longer talk about a diversion. Hydro-Québec and the Quebec government then sought to develop a new solution with region-wide Cree political, governmental, and corporate entities.

In 2001 the separatist premier Bernard Landry approached regional Cree Nation leaders to propose a new comprehensive agreement that would cover each of the main areas of conflict between the Crees and Quebec. An agreement was quickly negotiated and then ratified by Crees in 2002, albeit with partial support in Cree communities.¹⁰ The accord agreed to several things that Quebec and Canada had refused to discuss with the Crees for twenty-five years. Its main provisions addressed each of the key Cree priorities set out at an annual General Assembly of the Cree People in 1997 (Grand Council of the Crees 1997).

The most important provisions included Cree participation in resource royalties or rents, substantially increased partnerships for Crees in regional economic ventures, the use of the Cree system of hunting territories for managing industrial forestry logging, Cree receipt and control of substantial funds from resource development rents, Cree acceptance of responsibility

for the socio-economic development of their communities, and the application to Crees of the recent Quebec policy that the relationship of indigenous peoples to Quebec was one of nation to nation. In return, Crees agreed to give up court cases and claims against forestry activities and Quebec's failure to meet its economic and social development obligations under the James Bay and Northern Québec Agreement, and they agreed to the expansion of the existing hydro project, which would be subject to a social and environmental assessment and review of the plans. Quebec set aside its plans to develop another multi-river hydroelectric project that would include the now-diverted Rupert River (see C. Scott 2005 for an account of the agreement).

Contrary to the implicit structure of the 1975 accord, Premier Landry said at the signing of the 2002 agreement that "strengthening the Cree Nation does not weaken Quebec" (Landry 2002, translation by author), a point the Crees had been making as well (Moses 2002). The Crees, he argued, cannot close their eyes to the need to ensure economic development for their communities and, especially, their unemployed youth, for whom hunting and employment in public administration do not provide sufficient opportunities. The agreement, therefore, envisages accelerated development for the region (Landry 2002), with the qualification of respect for cultural differences and provisions that could moderate forestry impacts, which are described below. Nonetheless, the framework is still rooted in part in colonial development discourses that establish who is in crisis and in need and who has the solutions.

But under neoliberalism it is possible to recognize other nations within the territory of Quebec, so long as they are not sovereign states, and to transfer governmental functions and responsibilities to them. These practices, we have seen, have existed without wide recognition since at least the 1930s. This type of co-governance is not a threat to sovereignty, and it may even contribute under neoliberalism to projects for new national state sovereignties.

The neoliberal idea that governments should leave economic development more fully to market forces also provides a legitimating context for Quebec to turn responsibilities in this sector over to Crees who can work directly with corporate institutions that seek to develop the natural resources of the region. The new agreement provides capital with which Cree could develop resource-exploitation partnerships, but it does not include new recognitions of Cree rights that would strengthen their negotiations with corporations.

In his speech, Landry made it clear how the Province of Quebec thought the new agreement would work. He asserted that the Crees and the province would establish a new partnership and put aside their conflicts. This was possible, in the government's view, because the implementation of the agreement would lead to a convergence of objectives by Crees and the government (Landry 2002). The two common objectives that he identified were "an unshakable will, on both our parts, to ensure the full development of our respective communities" and "an equally firm conviction that the James Bay region has a potential which is not yet fully developed" (ibid., translation by author). Equitable participation in regional development is the best way to bridge the misunderstandings between the Crees and Québec. Landry concluded that the goal that the province had sought for over a quarter of a century was now at hand, "We have signed a peace agreement" (ibid., translation by author).

From a Cree perspective, the agreement transfers sufficient financial resources over the long term to give Crees much greater opportunities to get on with improving the socio-economic conditions of Cree communities, with reduced direct state intervention and control. The rapid growth of the Cree population makes Crees deeply concerned about having economic development funds of their own to find ways to create employment and productive lives for the growing number of youth. However, the province retains the possibility of interrupting the annual flow of funds if Crees breach the expected "peace" too radically, and it is rumoured that the province has initiated these procedures as a threat on at least one occasion.

The forestry provisions of the 2002 agreement shift nation-state administration to new joint forums for decision making in which state institutions and Crees reach decisions either at a regional level or at the level of hunting territories, as is appropriate. The agreement mandates the use of small groups of Cree hunting territories as units for managing industrial forestry cutting and gives them government recognition in relation to an industrial development activity for the first time. Three to seven hunting-territory Ndoho Ouchimauch are to meet, assisted by local Cree administration staff, with local representatives of the Quebec Ministère des Ressources naturelles et Faune to negotiate and seek agreement on detailed logging plans according to rules established in the agreement (see C. Scott 2005 for a fuller discussion). The government still has final authority.

But Ndoho Ouchimauch can envisage, and do experience, this system as a functioning, if not necessarily satisfactory, form of co-governance. Moving many decisions to local face-to-face working groups is a kind of

process and relationship that makes sense among Ndoho Ouchimauch and echoes some of the features of Cree models of co-governance that were created in relation to beaver reserves. The presence of these features contributed to the acceptance of the agreement among a part of the Cree people. Their implementation has, however, been delayed repeatedly as Quebec reorganizes its forestry sector.

So neoliberal governance is changing the terrain of negotiation and agreements. Many of these changes undermined the implementation of the early agreements, as has been indicated, but there are some that contribute to the recognition of co-governance in practice. But neoliberalism also defines how Quebec and corporations envisage the “new” relationship established with the Crees.

Neoliberal versus Cree Coexisting Co-Governance: New and Old Terrains of Governance

Many of the former state prerogatives that neoliberal governance makes available to Crees are offered as a form of co-governance that, in part, replicates and re-establishes personal-level relationships that are a central part of Cree forms of governance of hunting territories and communities. Nevertheless, neoliberal governance does not consistently fulfill the aspirations of Crees.

For example, the concessions Quebec made to Cree participation in forestry were in the expectation that they would involve a reorganization but not a reduction in forestry activity over and above that required by the then limited application of sustainable economic constraints. This logic was revealed in Quebec implementation strategies and in Premier Landry's claim that the objectives of the Cree and Quebec communities were the same: the full economic development of the resources of the territory and the development of the communities that occupy it.

If, in his view, peace can be achieved, it is because the government assumes that the Crees no longer have any needs, visions, projects, or autonomy that could not be encompassed by a system of governance that functions according to market and state goals. Quebec assumes that the old footings of Cree governance now exist only in the new.

If the Crees are not fully incorporated into the state, that can be accommodated, because, like corporations and paragovernmental agencies, all the Crees' current needs can still be fulfilled by the market. The need to create productive lives for Cree youths, it is envisaged, demands full engagement

with market opportunities and constraints. A modern Cree culture can be accommodated because the experiences and non-market visions of hunters and elders, such as those quoted above, are a part of the past but not the future.

Whereas in the past co-governance was messy in relation to nation-state sovereignty, the neoliberal Quebec view is that such ambiguities can now be readily accommodated. But what this process obscures is the disjuncture between Cree governance and the market logic of neoliberal governance. Charlie Coon Blacksmith was not questioning or challenging the logic of the sovereignty of the nation-state because he claimed an alternative state-like sovereignty; rather, he was calling for co-governance based on history and coexistence, and on respect for the land. What he was challenging in present co-governance practices was the rationality of governing lands and forests according to the logic of big companies. He wanted corporations to act in ways that took into account what was necessary to protect the land, the Cree way of life, and the jobs now needed by many Crees and, by implication, non-Crees.

This is the multi-faceted risk of neoliberal governance. Cultures can now be diverse, nation-states can coexist with non-state nations without threatening sovereignty, activities of the state can be decentralized and devolved, modernization need not be an explicit or totalizing and transforming goal, and direct interventions in encapsulated societies can be reduced (not least because other means are at work). But neoliberal co-governance is a vision, practice, and project that does not recognize an enduring relationship between the state and peoples with governance visions and logics that do not entirely conform to that of the market.

As a consequence, neoliberal co-governance is a colonial instrument, rather than a recognition or means to achieving enduring partnerships among quite distinctive governing polities and economies. Neoliberal co-governance neither fully recognizes nor accommodates the long history of relational co-governance that animates Cree hunters' visions, practices, and autonomy.

But the history of the James Bay Crees relations to nation-states and markets does not suggest that instrumental neoliberal co-governance mechanisms or legitimations can readily take the place of historical and coexisting co-governance partnerships, however welcome some of the specific arrangements that can be developed under their aegis may be.

Some governments read the recent agreements as leading to an inevitable transformation of Cree conduct and governance. They therefore

replicate many of the governmental visions of the 1975 agreement. Whether the Crees will come to understand themselves only through this “new” market vision is highly uncertain, and given recent Cree struggles it is unlikely. Nevertheless, the effects of this new agreement are not clear.

In the Introduction to this volume, the editors ask how and why communities accept commands directed at them as legitimate in the context of globalization. Part of the answer is that in colonial settings, like transnational arenas, legitimacy is naturalized in the discourses of colonist difference and supra-ordination. But, as is indicated above, legitimacy has different foundations and forms within many indigenous and non-state societies and polities.

For Crees, rather than being founded on contractual, representational, or market relations, legitimacy is founded on consensual processes, kinship relations, and personalized relations that are kinship-like. Questions of legitimacy are, therefore, about how long-term relationships can continue to exist or be created. Like kinship relationships, governance relationships are not primarily about creating, accepting, or rejecting relationships, for one does not choose or contract with one’s kin. Kin relations exist and have a history. This is not to say that kin relationships are not also created, distanced, and sometimes denied, but when they are created in non-state societies they tend to involve obligations and expectations that are intended to endure: they are not contracts for specific terms or purposes. When they are distanced or broken, as happens, they do not fully cease to exist, and renewal remains a possibility.

This open-endedness is not supposed to be because kin relationships are biological; rather, it is because they form the social relations and networks necessary for sustaining personal and collective lives. This is so even though kinship relations are, in practice, subject to continuous negotiation, evaluation, and exhortation. They are relations that encourage taking the needs of others fundamentally into account in what one does. Indeed, kinship relations often assume that it is normal, in many circumstances, to be willing to give up one’s life for one’s close kin. Kin relations are not ideals but practices that are necessary, and they are recognized, ignored, and lived for better or for worse.

As a result, governance modelled on kinship is more about practices of respect for others to whom one is already connected or to whom one can build a relationship modelled on kinship or friendship than about seeking a contractual or normative basis for relationships that have neither historical nor personal connections.

These forms of governance do not ideally or in practice tend to lead to compliance or commensurability with state governance and conduct. These forms of governance are about dealing with or creating enduring relationships. The term that constantly recurs in these discourses is *respect* (see Blacksmith, Saganash, and Awashish above).

An analysis of Cree-state relations over the last three-quarters of a century, thus, indicates why colonial governmentalities cannot be examined without also systematically analyzing coexisting non-modern projects and forms of governance. These non-modern forms of government may give rise to visions, discourses, and practices of co-governance. Colonial governmentality coexists with these regional forms of governance, which do not conform to the modernizing, resisting, accommodating, or self-governing subject visions of colonial discourses and societies. Nor do these regional forms of governance conform to the frameworks for analyzing governmentality per se. Colonial relationships are unequal, subordinating, exploitative, painful, and controlling. But they can, nevertheless, involve a messy mix of contestation, negotiation, and coexisting governance and co-governance. These latter forms of governance require attention and analysis.

Chapter 5: Governmental Rationalities and Indigenous Co-Governance

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- 1 Charles Trevelyan (1807–86) was a British civil servant active in Delhi and Calcutta in the 1830s. He is attributed with being the founder of the modern civil service because of an 1853 report he co-authored to modify recruitment practices in the British civil service. Later in his life, he was the governor of Madras.
- 2 The affidavits were made orally in Cree in the presence of a translator and a lawyer, and they were recorded in English. They were submitted as evidence in *Mario Lord et al. v. The Attorney General of Québec et al.*, s.c.m. 500-05-043203-981, but the case was settled out of court in 2002. Copies of the affidavits are in the possession of the author.
- 3 Simon Metabie was Charlie's brother-in-law, from whom Charlie inherited the position of *Ndoho Ouchimau*.
- 4 The institution was compared to land ownership by early twentieth-century ethnographers; however, as a result of more extensive ethnography, it was shown by the 1970s to have no precisely comparable "Western" equivalent, although Crees commonly express it as being translatable to "ownership" for many purposes.
- 5 I call these forms *mercantilist governance* because, like the later forms of disciplinary governmental rationalities, they continue to be employed after liberal forms of governance develop and become, in the context of liberal discourses, dominant institutions and societies.
- 6 Given the changes in historical contexts between 1975 and 2002, Awashish notes how the issues are now seen differently. He notes that the agreement "provided a means for achieving, to some extent, their [Cree] vision for the enhancement and advancement of *Eeyou* [Cree] governance but [it was] constrained by the existing political and legal environment of the 1970s. ([It] did not recognize Aboriginal rights ... [nor] the inherent

right of Aboriginal self-government)" (2002, 155, see also 157). See pages 155-59 for Awashish's review of the provisions of the agreement from a contemporary governance perspective.

- 7 Some of these characteristics of the implementation of the agreement were the effects of the early phases of the adoption of neoliberal governance. By adopting corporate models and delegating authority and functions, governments reduced their accountability and undermined the rational, legal precepts and protections of the agreement.
- 8 The exact processes by which these decisions were made are not clear from the available records. But it is clear that the Crees' campaign kept the Great Whale project from being started quickly. Crees, therefore, created the opportunity for changes in various arenas to have their effects, including energy market prices and demand, support raised by indigenous individuals working in transnational financial institutions, the development of oppositional alliances and public support, political unease during elections in the United States, and consideration of the effect of the project difficulties on the upcoming referendum about sovereignty in Quebec.
- 9 Because of the closeness of the referendum vote, this was a claim that Crees share with many others who were active in other aspects of the campaign.
- 10 Unlike the 1975 agreement, this was a bilateral accord between the Crees and Quebec. A separate agreement with the federal government was negotiated in 2008.

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