chapter 3  Neoliberal Governance and James Bay Cree Governance: Negotiated Agreements, Oppositional Struggles, and Co-Governance

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Diverse relations have developed between Indigenous peoples and the institutions of nation-states and markets inflected by the globalization of neoliberal visions and practices. Indigenous polities and communities sometimes oppose and seek to stop projects shaped by neoliberalism. They may develop movements seeking to oppose or subvert neoliberal practices themselves. They may seek to sustain or create polities and life projects that have minimal contacts with states and markets. They may negotiate agreements with governments that have adopted neoliberal ideas and practices. The agreements may result from economic compulsion or from authoritarian or non-disciplinary state practices, or they may be founded on a desire to create relations that can sustain or advance Indigenous polities and projects. This diversity of relations between Indigenous peoples and practices shaped by neoliberalism has received less attention than it deserves. This complexity is sometimes overlooked in analyses by those of us who envisage and work to enhance alternatives to neoliberalism.

In this chapter I analyze three processes that warrant additional consideration.

• Instances in which Indigenous polities seek to sustain and enhance socialities in the midst of engagements with market and state institutions, including most recently neoliberal visions and practices, engagements that can be shaped by the distinct visions and practices of
Indigenous peoples and by their specific historical experiences with nation-states and transnational markets.

- Because neoliberal visions and practices are diverse, contradictory, chaotic, and not centrally controlled but pervasive and sometimes dominant, they have recurrent and diverse and disruptive effects. Neoliberal visions and practices therefore constantly change or undermine the relationships and the arenas of conflicts between Indigenous polities, markets, and states. Thus, Indigenous peoples must repeatedly change how they engage with states and markets. These engagements include using the possibilities for opposition that are created by neoliberal visions and practices.

- In this profusion of structured and counter-structural neoliberal interventions, some projects and effects of neoliberalism are, for whatever reason, changes that have been sought by Indigenous peoples themselves. Thus, some of what neoliberalism creates or makes possible may be engaged with by Indigenous peoples seeking to advance their own projects and survival, not only through opposition but also by taking up opportunities for new forms of projects with states and markets.

These relationships may be pursued in various combinations even though such engagements occur in the context of globalizing neoliberal visions and practices that continue to have colonizing effects linked to earlier forms of colonial subordination. Recognizing these diverse and under-analyzed engagements does not ignore the suffering, burdens, and losses that colonialism and neoliberalism create. Nor need it involve abandoning the engagements of analysts themselves in movements against neoliberalism.

Analyzing the situated diversity of relationships that Indigenous polities may seek with markets and states does, however, require respectful and critical social analysis. One condition for analysis is that the analysts’ assumptions and agency are themselves subjected to critical reflection in the light of the indeterminacies and plural effects of any and all knowledge practices. Another condition is that Indigenous forms of socio-political projects and collective survival are acknowledged and analyzed.

I examine these issues through a case study of how James Bay Cree governance and co-governance developed regionally in the James Bay area of Canada and Quebec. I begin by noting that Cree governance and co-governance were sometimes strengthened as Crees sought to shape their
relations to the entry of nation-state institutions into their region during the middle decades of the last century. I also analyze how in recent decades neoliberal governance practices have been implicated in many of the failures to sustain aspects of these co-governance practices and to sustain subsequently negotiated agreements. As a result Crees have taken up situated but recurring oppositional campaigns to policies and projects of neoliberal governance and resource development. These campaigns have been responsive to oppositional opportunities created by neoliberal governance. But, more recently, neoliberal policies and practices have also provided new opportunities to Crees for negotiated agreements sought by Crees themselves. At the same time, neoliberal visions and practices have created incentives for governments and corporations to negotiate, and these incentives have been enhanced, in turn, by the success of Cree opposition.

These multiple engagements are replete with forms of entrapment that are clear to many Crees as well as to analysts. But many Crees also envisage that some neoliberal opportunities can advance their own projects by facilitating their distinctive regional forms of governance and co-governance. The forms and effects of these relationships are, therefore, neither straightforward nor easy to fully anticipate. When these processes are overlooked, analysts may too readily see Indigenous engagements with neoliberal projects as ill-advised or ill-informed strategies without a long-term view, as strategies that will necessarily weaken the capacity of Indigenous organizations and movements to defend their own projects and visions.

Confronted by these situated Cree patterns of partial opposition, partial negotiation, and continuing relationships, some analysts have implicitly while others have explicitly called for greater consistency or clarity on the part of Cree leaders. They often do so out of a social and analytical commitment and concern for the Indigenous peoples involved. For example, some analysts have noted that while Crees have denounced commercial forestry and resource development practices in their region, the globalizing context of neoliberal practices have not become a systematic focus of Cree political action. Crees, they note, do not address how issues such as deregulation of industries and free trade agreements are central to the negative effects of these developments. Even though Cree political organizations do intervene in transnational and international contexts to oppose particular arrangements, they do not offer what analysts think is needed. Some authors who have documented Cree struggles on the transnational scene write with concern that it is essential for the Crees' leaders to develop consistent
positions on deregulation, trade, and global democracy. These authors in-vite Crees and other Indigenous peoples to link themselves to cosmopolitan or national political perspectives, analyses, and movements to ensure that they do not lose significant political opportunities and capacities.¹

These analyses do not adequately acknowledge that there are Indigenous projects that are not centred on opposing neoliberalism generally and do not seek to replace it transnationally. Nor do Indigenous peoples who develop engagements with neoliberal nation-states or markets necessarily accept neoliberalism as a vision or fail to see the less obvious effects it can have. These relationships present a challenge to analysis. There is a need to understand grounds for action that lie outside the critical and cosmopolitan world of contemporary and emerging political and economic theories and analyses. Analyses of these diversely situated Indigenous projects need to consider whether and how they can sustain regional governance processes and whether they have significance for different ways of enhancing diverse non-neoliberal projects and movements.

In this chapter I offer a political history and analysis, along with what I acknowledge to be a thin ethnography. I show that varying Indigenous relationships to neoliberal states and markets may develop in the context of Indigenous cosmologies and earlier histories of engagement with state and market institutions. I contrast two main periods of relationship between the James Bay Cree and nation-state and market institutions. One begins in the 1930s, when Canadian state institutions first established a presence in the James Bay region. I follow these relations into a period of liberalism in the 1960s and 1970s that, while not a focus of analysis, forms an important intervening period in this history (see Feit 2009). The other main period starts in the 1980s, when neoliberal theories and practices became an effective presence in the region but did so in the context of memories and active efforts to continue some of the relations developed in the earlier and existing co-governance forms.

Neoliberal Governance: Terminology and Overview

By governance I mean the shaping of the conduct of relations within societies and with nature, including discourses, ideas, visions, practices, and institutions. In this view, Indigenous and other polities have forms of governance, whereas only modern nation-state societies can be said to have governmental rationalities in which conduct is also shaped by the application of knowledge as science and technical expertise to a populace. I use
the terms liberal and neoliberal to describe the organization of social life and the conduct of a populace as if they were or could be arranged like an economic market (drawing on Foucault 1991; Burchell, Gordon, and Miller 1991; Rose 1996; Latour 1993, 2004; Blaser, Feit, and McRae 2004; and Harvey 2003).

Neoliberal governance in theory and practice has been characterized in part by the privatization of social property; the expansion of property rights to new regions and to new phenomena; deregulation; the blurring of the boundaries between the state, the public, and corporate entities; the expansion of free markets and free trade; and the growth of financial institutions and mobile capital. Neoliberal governance is legitimated most frequently by reference to individual liberty and freedom. In practice it enhances entrepreneurship, markets, and trade, in part by reducing regulations, social services, and functions of the state that are viewed as non-essential to market-related goals. Neoliberalism both enhances and seeks to manage the environmental risks that market-oriented development creates. In practice it enriches the wealthy at the expense of the health and collective well-being of other social sectors. To manage the social conflicts it creates, neoliberal governance practices tend to enhance authoritarian forms of decision making and control and leave individuals to their own devices to meet their basic needs (see Harvey 2005, 2007; Ong 2007; McCarthy and Prudham 2004). Some analysts also stress the need to examine neoliberal governance practices as assemblages of mechanisms that are taken up situationally and characterized either by their diversity and ever-changing deployments and effects or by their active utilization of destructive and chaotic practices that have differential effects on people that are useful for accumulation (Ong 2007; Harvey 2005).

Alongside these analyses of the globalization of neoliberal theories and practices are examinations of the rise of oppositional political movements. The responses to neoliberal practices are diverse, and the possibilities and effects of these responses are often uncertain. Indigenous peoples have been leaders of some movements against neoliberalism, and they are sometimes seen as widely resistant to the enticements of neoliberal governance because of their diverse but widespread social and collective visions and practices (see chapters in this volume by Fernández Oso, Marimán Quennenda, Tabobondung, and Scott and Mullenman). In numerous situations, Indigenous peoples have therefore been at the forefront of movements against neoliberal policies and market-led development and their effect on lands, subsistence, commodity production, regional markets,
social collectivities, and the environment (see Khasnabish, this volume). Neither Indigenous opposition to neoliberal projects nor more diverse relationships that encompass both oppositional movements and engagements with initiatives informed by neoliberalism passively accept the self-proclaimed dominant reality of neoliberalism. Each can be rooted in the visions and histories of specific Indigenous peoples.

Cree Ontology and Co-Governance: A Brief Account

The relational ontology shared by many James Bay Crees of different generations is central to how they see governance, and it informs many of their understandings and engagements with market institutions and nation-states. In these ontological worlds, relationships are foundational to the emergence of individual and collective existence. The world of Crees limits radical distinctions between humans, nature, animals, and the wider cosmos. All have knowledge, the ability to communicate, agency, will, and idiosyncrasies. Many entities in the world are experienced as being like persons: Crees interact with them with the expectation of active engagement, mutual attention, and communication (Feit 2004a).

In such a world, the effectiveness of one’s actions cannot be well known in advance. Because this is a world of diverse agencies, it is also a world of pervasive potential and real conflicts and co-actions. Relationships are foundational to action, even in oppositional struggles, and relationships do not cease to exist even in the midst of conflicts and inequalities. Conflicts cannot be resolved by trying to cut all ties with opponents, and opposition is conducted to keep open and enhance the possibilities for more comprehensive relationships. When relationships are denied or ignored, it is expected that conflicts will ensue or grow and that consequential and complex effects will multiply for all. Crees do not envisage a means-ends world of action in which human groups can be in clear control of their lives or futures but rather a complex and unpredictable world of ongoing and ever-changing connections.

Cree Self-Governance, State Governance, and Co-Governance, 1931-71

The governments of Quebec and Canada have had an effective presence in the James Bay region or Eeyou Istchee for less than a century, even though the Crees have been linked to world markets through the fur trade since the seventeenth century. Governmental presence in the twentieth century
has been pursued through visions and practices of several related governmental rationalities, of which neoliberalism is but the latest. Neoliberalism followed an initial mercantilist governmental rationality inherited and elaborated from the fur trade and a liberal and developmental rationality linked to the expansion of resource development into this formerly remote region in the 1960s (see Feit 2009 and, for a more complete account of the 1930s period, Feit 2005).

Many elders Creees see continuities between their relations with governments and the forms of conflicts and partnerships that have characterized significant periods of the fur trade in the preceding three centuries (on the fur trade, see Francis and Morantz 1983). This history can be read as one of co-existence and situated partnerships as often as it can be read as a history of conflicts. In this account I highlight the former because the stories of colonial conflicts and exploitation are much better known.

Beaver Reserves: Cree Ideas Become a Claim of State Governance

In the 1920s and early 1930s, in response to the boom in fur prices on world markets and increasingly easy access to the region by non-local trappers, many lands around James Bay experienced a serious decline in beaver populations (see Feit 2004b; Morantz 2002; Scott and Morrison 2004). In response James Watt, a concerned Hudson’s Bay Company (HBC) fur trader, decided on the basis of “a long discussion I had with several Indians on this subject [that] it would appear that were it possible for a hunter to uphold his right to certain hunting lands it would do more to conserve beaver than any close season.” At the urging of his wife, Maude Watt, a public figure famous for her northern travels, the government of Quebec in 1932 set aside eighteen thousand square kilometres on lands near Rupert’s House (now Waskaganish) as the first beaver reserve. Thus, a Cree idea to recognize the Cree hunting territory system to strengthen one of the forms of Cree governance and facilitate the Cree’s capacity to conserve beaver was translated into a state game reserve managed by non-Crees.

The new managers claimed to govern both beaver and Creees. In his notes for a speech to announce the beaver reserve to the Cree in 1932, Jimmy Watt explained that “all Beaver are going to be the property of the Government and when they think they are plentiful enough to kill the Government will tell you how many to kill, and will settle the price you will be paid” (quoted in Morantz 2002, 162, emphasis in original). Use of the future tense indicates that Watt knew that what he was saying
represented a change from Cree understandings of who made decisions about whether beaver could be hunted. Beaver conservation became a project of state governance, and it required self-conscious measures to seek Cree recognition of the new non-Native governance regime.

The Governmentality of Beaver Conservation

The governmentality of beaver conservation was closely related to mercantilist governance, which was a characteristic of many pre-nineteenth-century periods of European development and colonization (Foucault 1991; Rose 1996), including earlier periods of the fur trade. It sought to maintain and improve conditions for Cree self-sufficiency in the economic, social, and governance realms. It was not a modernist project to improve the Crees by hastening their incorporation into wage-labour markets, by teaching them to be citizens, or by promoting urbanization, although these developments were thought to be the ultimate destiny of the Crees. The conservation system sought to promote self-sufficiency, in part, by helping Crees to stay on and recover control of their lands (for example, by excluding outside trappers) and by perpetuating their place in a system of production that had emerged during the fur trade. From the perspective of market analysis, the conservation system was linked to a form of putting out in which the merchant and governments advanced necessary credit, goods, and some productive technology but the producers remained in control of the means of production and the social organization of labour. The primary relationship between producers and markets was trade (see Tanner 1979), and the system generally extracted value through unequal exchange. This was done by using the terms of trade to seek to influence labour time and work allocation, for example, by encouraging increases in the time devoted to trapping fur-bearing animals as opposed to other subsistence activities and increases in the number of family members involved in trapping and fur-pelt processing. Mercantilism could and did at times produce super profits for traders. In the early 1930s, even as fur prices declined, the HBC looked forward to more profitable fur markets as beaver numbers recovered, and governments looked forward to reduced social assistance and welfare demands from Crees as fur incomes increased.

As a form of governance, mercantilism produced effects without seeking to radically transform Cree governance, tenure, or internal social relations, although there were modifications to each. Indeed, mercantilism
partly re-created the personalized and ongoing relations that Crees and traders had co-developed over many decades. Beaver management depended on creating effective personalized social relations between trappers and traders or government agents. Just as fur traders sought, ideally, to advance each trapper just enough goods to maximize but not exceed the trapper's capacity to produce valuable furs, so too the beaver reserve managers gathered and evaluated hunting leaders' reports about the number and condition of beaver lodges on their hunting territories. Later, when there was enough beaver for trapping to start again, managers tried to agree with Cree hunting leaders and hunters on annual trapline and hunter quotas and tried to allocate harvests by family size and the capacity of hunters to make the given number of catches. (In practice, Crees often made their own adjustments to the agreed-upon quotas.)

Cree Visions: Exercising Cree Governance, Inviting Government Cooperation

Cree hunters quickly recognized the benefits of the beaver reserves, for, by excluding outside trappers from the region, they implicitly acknowledged and practically facilitated Cree control and governance of the land, even though governments and the HBC did not initially intend this outcome. So they worked with the system (Morantz 2002, 161). How Crees saw their relationship with the governments, however, differed from the visions of governments themselves. In 1936, when the Crees of Waswanipi, which was located southwest of Rupert’s House in an area where there was no beaver reserve, decided to stop taking beavers for three years to aid the recovery, they offered the following explanation for their decision to Indian Affairs officials: “As we called a meeting among the Waswanipi Indians to this effect all the Indians were agreeable, so all we ask is if the Department will honour our move, and give us the authority to keep any outsiders off the said lands.” The Waswanipi did not ask the government to legalize or legitimate what they had done: they wanted the government to honour their decision. They wanted the government to add its authority to theirs to ensure that the decision would be respected by other Aboriginal people who were not part of the community decision and also, although it was not explicitly mentioned, by non-Native trappers.

Crees were using the initiatives, legitimacy, and authority of their governance practices — hunting territory leaders, community meetings, and
consensual decision making. But these governance practices did not preclude inviting government involvement. Cree governance was not exclusionary; the Cree were not making a claim against the government but a request for mutual respect. These Cree visions and practices of governance, however, were not understood clearly or fully by government officials. Non-exclusive governance and co-governance were hard to “see.”

Recognition of Cree Governance and Messy Co-Governance

By the beginning of the 1940s, beaver numbers had expanded enough to put the first of the beaver reserves into “production.” It was a challenge. Although the new beaver reserves would cover almost four hundred thousand square kilometres within a decade, the reserve managers had limited knowledge about the land, the beaver populations and biology (the key scientific research had not yet been done), Cree tenure, or the social and productive organization of trapping. Government and HBC managers therefore quickly came to depend on the Cree to use their own governance arrangements to collect and organize information about beavers and to have a say in decisions about how beaver were trapped. In 1942 the deputy minister of Indian Affairs described the result in a response to a query from the commissioner of the Royal Canadian Mounted Police (RCMP). He sought to explain and affirm what both federal agencies were doing:

[The RCMP officer] rightly stresses the importance of trapping ground rights and the following explanation of our tallyman system will show that we also not only recognize these rights but have put them to practical use in our administration of Fur Preserves.

When an area is set aside ... as a Fur Preserve ... [it is] divided into family hunting areas which we call districts [also called but misleadingly described by the term tapiplane] and one Tallyman is placed in charge of each district ...

When it is borne in mind that a Tallyman is the head of a family; that a district is a family trapping ground ... and that all boundaries are laid out by the Indians themselves, it is apparent that we have ... adhered strictly to Indian custom.4

Thus, senior federal government officials explicitly acknowledged that their departments were recognizing Cree rights, tenure, leadership institutions, and social organization and using them to organize the beaver reserves.1
In 1946 the federal fur manager for the region explained how beaver reserves worked to a federal parliamentary committee: “Our organization is based on Indian tradition and custom ... once the white man's practices of written leases and agreements are disposed of we revert to Indian custom, pattern our organization after their sound, well-established practice and divide our preserves according to the original plan of land tenure that from time immemorial has served the Indian population” (quoted in Morante 2002, 307, author's emphasis). The manager's phrasing acknowledged the need of managers like himself to go beyond the law of the nation-state and a strictly legal viewpoint to recognize Cree tenure and rights to put conservation into practice.

Thus, there were several parallel views of governance. The beaver reserves with tralines and tallymen were being recognized as a set of practices that had partial codification in state legal acts. But they were also founded on Cree tenure and hunting leader and hunting territory governance. Cree hunting territories or ndaho istchee were recognized as distinct from but overlapping with tralines because everyone agreed that they predated the latter, and they applied not only to beaver but to game hunting and residence more generally. The beaver tallymen were the people who were general hunting leaders or ndaho istchee ouichmauch within Cree society. The government managers were recognized by Crees as amisk ouichmauch or beaver leaders, as opposed to hunting leaders.

Nation-state and Cree tenure and governance were sufficiently autonomous that neither fully conformed to the logic and authority of the other. But each form was recognized by Crees and non-Crees. The beaver reserve as a practice and a norm was an ambiguous hybrid that was sometimes talked about as a state system and sometimes as a system rooted in Cree tenure. Although there were diverse views on them, daily hunting and trapping practices and beaver reserve management were not fully distinguishable in practice. Mutual recognition of co-governance was therefore one of the effects of establishing state governance in the region already governed by Crees.

Governments officials and Crees did, nevertheless, make claims to governance that came into conflict at times. There were, for example, cases when reserve managers wanted to change specific Cree practices and used coercion in the form of police harassment and short-term arrest (see Scott and Morrison 2003). Nevertheless, the Cree hunting territory system and hunting leadership survived these conflicts, and when governments withdrew from beaver reserve management in some areas in the 1960s and
1970s, Cree practices continued to be used and altered by the Cree as circumstances changed.

Nation-state governance was established in the James Bay Cree region without the extensive use of physical coercion (although it was used in specific situations), without conquest, without extensive ground dispossessions of the Cree, without pauperization of the Cree, without a dramatic reorganization of Cree labour, and with a mix of suffering and benefits to Cree. This outcome was relatively uncommon on a world scale, and it was partly and fundamentally a result of Cree visions and projects of coexistence. It was consistent as well with the specific form that state and corporate budgetary and market interests took. Co-governance developed in this conjuncture, and it was actively envisaged, sought, and shaped by Cree and non-Crees.

Cree governance practices were not only recognized but actively taken up in the workings of state projects over a period of decades. Although this recognition partly enhanced nation-state control, it also recognized and helped to secure the continuation of Cree governance. In short, despite specific forms of subordination, long-enduring and valued relationships of hybrid co-governance came to be embedded in the practices, concepts, and institutions of governments and the Cree. Relationships of co-governance are a part of the historical, personal, and collective experiences of Cree.

Resource Development and Co-Governance: Negotiating Agreements

Between 1931 and 1971, many Cree came to see co-governance relationships with Canada and Quebec as desirable and normal, albeit imperfect. They also tended to reject and oppose any radical denial of these mutual responsibilities, connections, and lived histories. These experiences with governance shaped how many Cree responded when the Quebec government began large hydroelectric developments in the early 1970s after a decade of increasing forestry and mining development. All of these projects had been undertaken without Cree involvement in decision making. Groups of Cree had repeatedly sought to start a dialogue. When efforts failed to materialize, many Cree began to oppose development projects that damaged lands.

In 1972, for example, Daniel Wapachee from Rupert’s House spoke to a journalist about the new hydroelectric project and his hunting territory through a translator: “What Mr. Watt had done was very good ... When we
were given these territories by the government we were told to make sure that no intruders came, and if they did come uninvited, we were told to report it and we would be given compensation for what the intruders were getting from our land. But since these people arrived, we haven’t received anything at all in return. So I guess it is understandable that I have a little bit of dislike for the white man” (quoted in Richardson 1991 [1975], 109-10). Wapachee expressed dismay both at his lack of having had a say about what was happening on his land — he called the developers uninvited intruders — and at the developers’ failure to meet the obligations recognized in earlier Cree relations with companies and governments. When he said he did not receive “anything at all,” he added “in return.” Wapachee was not simply seeking compensation for damages — the damages could not be remedied in any case. He started by referring to the history of the beaver reserves as having been “very good.” Beaver reserves were not about compensation but about mutual recognition and benefits and ensuring that intruders did not diminish the lands and the game important to Cree. Indeed, many Cree saw government transfer payments that started in the 1940s as compensation for Cree assistance with beaver reserves and the fur trade. That same year a Cree elder from Waswanipi said at a meeting held among Cree to discuss the hydroelectric project, which was then in the early stages of construction, “Perhaps if they had started to consult the Indians about the benefits of the James Bay Project, there would have been less opposition to it. So we now have no other way but to oppose it.”

Crees opposed the hydroelectric project in court and through a public campaign, and the story of Cree forcing the governments and Crown corporations to negotiate has been told numerous times. After a highly contested court case and a ruling strongly supportive of Cree rights, a ruling that was suspended quickly by the higher courts, the Cree rejected a quick settlement, and the federal government and the government of Quebec agreed to initiate what turned out to be a two-year-long negotiation process that led to the James Bay and Northern Quebec Agreement (JBNQA). The agreement, signed in 1975 under the pressure of ongoing dam construction, permitted the project and other resource developments to proceed with only modest changes and recognized the Cree’s right to continue to live their way of life on the land. The JBNQA created processes and institutions that were intended to ensure that future developments would proceed in ways that would accommodate Cree society, land use, and involvement in decision making. The agreement explicitly established state
governance as supreme in all but a few limited domains; co-management was required in many areas of policy making and administration, but decisions would be legally subordinate to the final authority of the state. The agreement was expected to introduce significant constraints on the exercise of the governments’ extensive rights (for fuller accounts, see Vincent and Bowers 1988; Gagnon and Rocher 2002; Quebec 2006 [1975]). Cree governance of the land was acknowledged through the recognition of hunting leaders and hunting territories. A program of income security payments for full-time Cree hunters was established to ensure that Crees had the financial means to continue to live on the land. All of these steps were intended to maintain the continuation of a hunting way of life.

The agreement was acceptable to nearly all Crees partly because they believed it would allow them to continue “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” (Awashish 2002, 161-62). This understanding was founded on the previous decades of beaver reserve co-governance, on Crees successfully forcing the governments to negotiate an agreement that recognized the Cree tenure system and the existence of a distinctive relationship, and on Cree-initiated and government-supported programs to keep Cree hunters on the land and preserve the Cree way of life.

Agreement Implementation: Exclusion, Failed Co-Governance, and Development

The implementation of the agreement has not fulfilled the Crees’ expectations. A full account of the implementation has yet to be prepared, but Philip Awashish, one of the Cree negotiators, has succinctly summarized the failures of implementation and noted the effects of the agreement that have to some degree aided the Crees. Awashish writes that Crees have been excluded from decisions about the development of the land and that the provisions have led to their “exclusion in the overall governance of the territory and exclusion in economic and resource development and benefits.” The consultative and advisory bodies, such as those for the management of game and hunting and for protection of the environment when there is new development, “have not had any significant impact on the making of policies and enactment of legislation by Canada and Quebec.”
The provisions for economic development are "another dismal failure as Quebec continues to pursue and implement policies that exclude Eeyou [Cree people] from direct participation and full benefits." The provisions for projects to remedy the negative effects of hydroelectric projects and the "relationship between the Eeyou and the James Bay Energy Corporation simply permitted and enabled the [latter] ... to control the type of remedial works." According to Awashish, "Eeyou communities are suffering from the soul-destroying effects of inadequate and ... [insufficient] housing, unsafe or lack of water supply and rampant unemployment," 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" (Awashish 2002, 156–59).

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 Eeyou in the exercise of power." Reflecting on the 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."

Along with this broad critique, 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 Eeyou. ""Eeyou, through their local governments and other Eeyou authorities, are exercising a substantial control over their destiny and affairs ... In many instances Eeyou of Eeyou Istchee have adopted a 'just do it' approach" (Awashish 2002, 162). As Awashish indicates, governments and corporations have successfully opened the territory to diverse and intensive natural resource exploitation projects, including forestry and mining. There have been few disruptions to resource developments, although Crees have mobilized significant setbacks to specific projects. Access to the region by non-Native hunting for recreation, hunting, fishing, and tourism has been dramatically expanded, and provisions for Crees to regulate non-Natives have been systematically subverted.

Both Crees and the governments of Canada and Quebec sought provisions to install or expand the formal institutions of modern community
and state governance in Cree villages, such as school and health boards with modified governmental models under Cree administration, and diverse managerial bodies related to village administration, community environmental protection, social services, policing, courts, and other state institutions for regional governance. These provisions of the agreement have been implemented, often at the insistence of Crees, for Crees want to ensure education and health care for their families' well-being in growing and increasingly sedentarized communities. Such institutions are linked to the emergence of ways of thought and action that are associated with nation-state societies, but they have not been effectively established as dominant among recent generations of James Bay Crees.

**Governmental Rationalities and the Implementation of the JBNQA**

For government and corporate negotiators in 1975, the key aims of the negotiations and the agreement were to end Cree legal action against the hydroelectric project, to make legal actions more difficult in the future, to clarify the state's right to govern the territory, to ensure the continued development of natural resources under provincial jurisdiction, and to establish effective state social governance of the Crees. The agreement did many of these things imperfectly and incompletely. It successfully clarified Quebec's right to the territory, and development has continued rapidly. But the Crees' ability to disrupt and on occasion block development and political projects has not been dissipated, although it has changed in important ways. In addition to opening the territory, the federal and provincial governments and Hydro-Québec, the government-owned public utility and electricity provider, aimed, in the words of its negotiator, to "assurer un climat social satisfaisant" (Couture 1988, 51). They sought to create "un climat raisonnable de sérénité, de paix sociale et de collaboration" (Couture 1995, 210-11) by means of a social contract (Couture 2002, 67).

These statements were an acknowledgment that the governments and the corporations were concerned not only about securing their legal rights and generally effective access to the territory and its resources but also with governing the Crees. Establishing a non-disruptive relationship was essential to the creation of a low-risk climate in which to manage the financial, human, and technical resources needed to plan and efficiently complete large-scale developments and investments. Hydroelectric projects involve securing billions of dollars from capital markets and mobilizing massive technological resources and thousands of workers in sometimes
rigorous living conditions. In such a context, disruptions such as those caused by Cree court challenges, court rulings, and protest movements were costly and sometimes increased the perceived risks of the projects for investors and clients.

The goal of implanting dominant colonizing and subordinating governmental rationalities in Cree society has largely failed. As a result there was extensive opposition and conflict between Cree and governments through the 1980s and 1990s. These conflicts occurred because of, as well as despite, the rapid incorporation of the region into the transnational economy and the state administrations of Quebec and Canada.

The Effects of Neoliberalism on the Implementation and Development of the JBNQA

The implementation of the JBNQA and its post-1975 development were linked to the adoption of neoliberal governmental and market theories and practices in Quebec and Canada in the 1980s. These theories and practices directly undermined many provisions of the agreement and legitimated new strategies of development and governance. Neoliberal governance was increasingly the form through which the state came to establish its knowledge and practices for developing lands and resources and for “managing” Indigenous peoples. One example of the effects of neoliberalism was the new management of commercial forestry implemented in Quebec. In 1986 Quebec passed a new Forest Act without public consultation but partly in response to public protests and social actions directed at forest practices and policies in Canada (see GCC 1996a; May 1998; Feit and Beaulieu 2001; Bernstein and Cashore 2000; see also Marchak 1993).

The Forest Act gave corporations the right to cut forests for a minimum of twenty-five years, and it made those rights renewable. It shifted most of the forestry planning and management functions from government to beneficiary companies. It put companies in charge of public consultations under rules that implicitly aimed to limit public inputs and their effects but gave the appearance of accessibility and accountability (Feit and Beaulieu 2001; NBDC et al. 2001; Mario Land et al.). This downloading of forestry management and regulation was accompanied by the ever-changing realignments of market forces, swings in pulp and softwood lumber markets, trade disputes with the United States over tariffs and market access, forestry company buyouts and consolidation, and growing environmental and public awareness that Quebec logging levels were unsustainable. These
contradictory and chaotic processes raised public opposition but rendered effective intervention more difficult. The Grand Council of the Crees summarized the situation as follows: “Instead of strengthening or complementing the provisions set out in the James Bay and Northern Quebec Agreement, the Forest Act serves to weaken the rights of Crees by granting indefinite timber licenses for large tracts of forest to private companies” (GCC 1997b). They described how the new regime would undermine their ability to make inputs (GCC 1996b, 1997b). They concluded that “maximization of the timber harvest is at the forefront of the Forest Act” and that, contrary to the vision of the JBNQA, no effort was being made to adapt forestry practices to suit Cree occupation and use of the lands (NRDC et al. 2001, 40, 42-43; see also Mario Lord et al.).

The new regime had extensive effects. In 1975 approximately twenty-four thousand square kilometres of forested land were allocated to companies in Cree hunting territories; by 1999 this figure had increased to over sixty-eight thousand square kilometres. Over four hundred square kilometres, the equivalent of one Cree family’s hunting territory, was being cut each year, and a cumulative total of over ninety-four hundred square kilometres was cut by 1999 (Mario Lord et al.; GCC n.d., 1996b; NRDC et al. 2001, 44). Up to 80 percent of some Cree hunting territories were logged within a twenty-year period, even though forestry companies were still complying with cutting levels in the affected forestry management units, whose boundaries did not take Cree territories into account (GCC 1996a). This harvesting happened despite public pressure about environmental unsustainability.

The reasons for intensified logging had much to do with Quebec–wide problems in the forestry sector and with the politics and economics of investments and public concerns about jobs. The means and rationales by which the forestry sector was changed were shaped deeply by neoliberal theories and practices. At the end of the 1990s, the Cree renewed and accelerated their court proceedings against Quebec and twenty-six forestry companies operating on their lands.

Neoliberal Effects on New Terrains of Struggle

Between the late 1980s and the end of the 1990s, the Crees developed several successful campaigns in response to developing conflicts about the land and the failure of co-management measures agreed to in the 1975 agreement. The most complex campaign sought to stop the planned
second phase of hydroelectric development, the Great Whale River project. That campaign was fought on very different terrain than conflicts in the early 1970s, terrain that had been shaped in part by neoliberalization and globalization. As a consequence of these changes, these struggles were fought in part in international and transnational arenas (Barker and Soyuz 1994; Jenson and Papillon 2000; Rousseau 2001; Gnarowski 2002). The Cree campaign against the Great Whale River project played an important role in convincing the New York Power Authority to cancel a major contract to purchase Quebec electricity in 1993, partly because Creees had publicly highlighted how declining energy prices in the early 1990s were making the contracts unattractive to US consumers (see Craik 2004 and Possum 1997 for reports on this campaign). In 1994, Quebec announced that the project was suspended indefinitely. The Cree campaign appears to have affected this decision in several ways: by affecting market views of Quebec electricity and by delaying decisions, during which time energy demands declined. In addition, the delays brought the decision about whether to begin project construction into the time frame of a referendum on Quebec independence.

In 1995 the Creees took an active role in the opposition to the referendum on Quebec secession from Canada. They argued that they would exercise their own right to decide with whom to affiliate. Creees voted in their own referendum to stay in Canada. Shortly after, the Quebec referendum vote went against Quebec separation by the narrowest of margins. Based on a public opinion poll that they had commissioned, Creees claimed that their threat to keep their substantial territory apart from a separate Quebec was one of the factors that played a decisive role in reducing public support for separation and that shaped the outcome of the referendum (Jenson and Papillon 2000; Craik 2004; see also Cohen 1994).

The confrontations of the 1990s made it clear that the governance of the James Bay region had yet to be settled two decades after the JBNQA. These conflicts demonstrated the Creees' will and ability to exercise broad governance and the dangers of ignoring Cree governance, given the Creees' capacity to create strategic disruptions of state sovereignty, state projects, and corporate developments. The Creees were in a better position to try to do this than they had been in the early 1970s, partly as a result of the JBNQA. They had an effective regional organization, experienced leadership, broad community support, and some funding that they controlled (see Salisbury 1986; Jenson and Papillon 2000; Craik 2004). These oppositional campaigns also succeeded, in part, because of the changes created by neoliberalism,
including highly mobile capital markets that facilitated raising capital but also increased sensitivities to regional risks to investments and transnational consumer environmental and product awareness. Hydro-Québec depended on international energy markets to sell electricity and on transnational capital markets to supply part of its massive capital investment requirements. Because the US public utilities that bought electricity were partly responsive to public opinion and environmental movement campaigns, Hydro-Québec argued that hydroelectricity was cleaner than fossil fuel energy and more secure than nuclear production. Crees built a campaign that stressed, in addition to the cost issue noted above, that hydroelectricity flooded vast territories, damaged wildlife and the environment, and adversely affected Cree lives and culture. It was not clean, they argued, and consumers should consider their choices and make them known to their public utilities and politicians. The Cree campaign also emphasized alternative energy strategies that were supported by their allies in environmental organizations and that showed the general public that there were alternatives, such as reducing energy demand through conservation. Crees argued in the northeast United States that energy conservation was cheaper for US utilities and would provide more jobs. This argument was attractive to some US energy utility executives.

The Cree campaign showed, like forestry campaigns on the West Coast of the United States and Canada that preceded it, that in the developing neoliberal marketplace — which was accompanied by weakening consumer allegiances and growing public concerns about the environment, health, and human rights — corporations could be vulnerable to the environmental and social reputations of their product and brand, even if they were not selling directly to consumers. The Cree campaign also mobilized citizen groups in the New England states to take the initiative to rethink their own domestic concerns about their states’ energy policies (McRae 2004).

Hydro-Québec also tarnished its reputation for effective project planning and control by trying to minimize and avoid, with the support of the governments of Canada and Quebec, impact assessments provided for in the JBNQA. Crees challenged these decisions in court, and the environmental reviews that the courts required forced Hydro-Québec to revise its schedules and budget forecasts for the project. Investors must have taken note that Hydro-Québec was not meeting its management schedules or its cost projections. Hydro-Québec also, ineptly, got a Canadian court ban on the public release of the terms of its supply contracts with Quebec.
aluminium producers, which were much lower than electricity rates for the general public. The Crees’ allies in the environmental movement made the lower rates in these contracts public in the news media of adjacent US states not covered by the Canadian court ruling. From its public relations efforts at that time and the years that followed, we can infer that Hydro-Québec’s actions raised questions for potential investors about its ability to manage the milieu in which it conducted its business. Its problems of control included the following: mishandling the treaty’s legal requirements, failing to effectively deal with transnational campaigns by Indigenous and environmental groups, misjudging the Crees’ rights and capacity for opposition in its strategies and statements, not anticipating various energy market pricing risks, and not effectively dealing with transnational consumer sensibilities.

In the referendum debates that followed the shelving of the Great Whale River project, the increasing prominence of Indigenous peoples in transnational political arenas — such as at the United Nations, where the Crees played an important role in Indigenous forums — had important political implications. It showed that Indigenous opposition to separation would weaken prospects for the international recognition that an independent Quebec would need in order to take a legitimate place on the international stage (GCC 1998; Gnarowski 2002).

The Cree campaigns against the second phase of hydroelectric development, their effect on the referendum campaign, and their mobilization against the forestry regime and corporations all demonstrated new and changing ways to oppose projects, ways that were shaped in part by neoliberal governance. Nevertheless, the region was still being developed at a rapid and generally uncontrolled pace.

Neoliberalism was facilitating the expansion of markets and corporate control of new resources and decidedly increasing the concentration of wealth. It was also making capital more mobile and managers of capital more demanding; it was thus changing the way businesses and governments had to operate. The market had greater influence on many aspects of life, but it also made narrow and specific judgments about corporate governance and the business environment provided by political jurisdictions (for another example, see Blackburn 2005). Thus, neoliberalism was creating new grounds for contestation and opposition, and it was increasing the risks for developers and governments. It did so even as it made opposition more difficult in other ways — such as by decentralizing decisions, reducing regulations and accountability, and creating constantly changing
configurations in markets and political arenas. Most importantly, many of neoliberalism’s most important regional effects were complex, emergent, and not readily foreseeable.

Neoliberal Effects on Agreements and New Entrapments
The New Terrains of Negotiations and Agreements

By the late 1990s, Crees were looking for new ways to deal with governance conflicts and to enhance relationships with governments and markets. The burdens of constant campaigning and legal actions by a population of seventeen thousand men, women, and children had added stress to daily lives already disrupted by ongoing development and partly failing co-governance arrangements. At a General Assembly of the Crees in 1997, on the eve of the last cash instalment provided under the JBNQA, the Crees set out new priorities for their relations with governments and development corporations (GCC 1997a). Among the highest priorities were achieving recognition that these were nation-to-nation relationships, recognition of the Crees’ right to cash royalties or resource rents from their lands, and the regulation of forestry developments on Cree lands (on the concept of nation-to-nation relations, see RCAP 1996).

Quebec and Hydro-Quebec decided in 2001 that they preferred to seek a new agreement with the Crees before initiating construction of a new hydroelectric project (Craik 2004). Negotiations in 2001 covered each of the main areas of conflict between the Crees and Quebec, and an Agreement Concerning a New Relationship between Le Gouvernement du Quebec and the Crees of Quebec was quickly reached and then ratified by Crees in 2002 (Quebec 2002). The ratification was supported by a majority of Crees, but unlike the 1975 agreement, it deeply divided them. The main provisions of the agreement fulfilled the Crees priorities set out at the Annual General Assembly of the Cree People in 1997. Some of these provisions dealt with issues that governments had either refused to discuss or had withdrawn from the negotiations twenty-five years earlier.

In the agreement, Crees gave up court cases dealing with forestry and Quebec’s failure to meet its obligations to promote economic development and other obligations under the JBNQA. The Crees themselves took over the responsibilities for economic and social development, which had not been fulfilled, despite rapid development in the region. And Crees received substantial funding from governments under the agreement to develop and pursue their own development plans. During negotiations,
the Cree agreed not to oppose the limit of their means the partial
diversion of the Rupert River into the existing hydroelectric complex.
Related agreements with Hydro-Québec provided work contracts for
the project, significant job training, and compensation for hunters in the
affected regions. The diversion was subject to social and environmental
impact assessments, which eventually gave some design concessions to
local Cree hunting leaders whose lands were most affected. The main
agreement also included a commitment by Quebec not to build the lar-
gest hydroelectric project of which the now diverted Rupert River was a
key component (Quebec 2002, for an account of the agreement, see
Scott 2003).

Why the changes in government policy permitting the negotiation of
previously unacceptable provisions sought by the Cree occurred at this
moment is related to the success of Cree opposition campaigns against the
1990 hydroelectric project and the referendum on an independent Quebec.
In addition, in 1975 the political priority had been to clarify the govern-
ance mandate, sovereignty, and the territorial integrity of Quebec. By 2001
the national political context had changed.15

But these changes do not help to explain the particular form the agree-
ment took. Many of the changes in the government's negotiating position
were made possible, even desirable, by its adoption of neoliberal theories
and some neoliberal governance practices. Under neoliberalism, the gen-
eral blurring of boundaries between nation-state responsibilities and activ-
ities and those of corporate and civil-society institutions makes recognizing
other nations and governance institutions that are not nation-states pos-
sible within the territory the state claims. Similarly, it makes recognizing
the Cree hunting territory system of tenure for managing commercial for-
ery possible. Under neoliberalism, it is possible, even good, to share re-
source rents with non-state entities, especially if rent sharing accompanies
a transfer of economic responsibilities from governmental to non-state en-
tities. This sharing of responsibilities is acceptable even in cases where it
may give recognition of governance status to receiving entities that are
themselves political entities or non-nation-state governments.

Neoliberal visions and practices have made these new arrangements
possible because they legitimate reducing the role of governments in gen-
eral and centralized governments in particular by dispersing decision mak-
ing and accountability, mobilizing nationalism and ethnicity to constrain
social disruptions caused by the greater inequalities produced by neoliberal
policies, and using various other means to facilitate wealth accumulation
and deal with its effects. These approaches are dispersed widely as taken-for-granted ways of governing, although they exist alongside others. As a result, the effect of neoliberalism is pervasive but not necessarily planned or coherent.

New Terrains of Conflict and Entrapments

As the Crees explored the new possibilities offered by neoliberalism in the 2002 agreement, they also encountered new obstacles, many of which were the effects of neoliberalism, whether planned or omnipresent. The negotiated recognition of nation-to-nation relations in the agreement was, the Crees later learned, being contradicted in other governmental negotiations at about the same time.

In 2001 Québec and Hydro-Québec were holding meetings about the role of the then relatively inactive Municipality of James Bay. Because forestry and mining industry cycles were creating recurring unemployment in northern non-Native towns and cities, mayors and union leaders were seeking new means to balance increasing municipal costs and declining incomes and a means to develop new resources, especially tourism and small-scale resource developments, for townsfolk. The Municipality of James Bay—a regional, non-Cree entity created under Québec legislation at the time of the first hydroelectric project—was reorganized as a forum for elected officials from most of the non-Native towns in the southern part of the James Bay region. The municipality was accorded broad powers over the vast region in its negotiations, and Hydro-Québec accorded it contracts and funding. Its new rights applied to areas outside the small Cree municipal entities created by the JBNQA, including the vast majority of Cree hunting territory lands, which were occupied most of the year only by Crees. The municipality used its powers to try to regulate Cree land use in general and to remove Crees from areas where the potential for tourism existed or areas where the municipality could plan to create small income-producing hydroelectric facilities. Cree political organizations, as well as many families, therefore found themselves in new conflicts with non-Cree land management that contravened the provisions of the JBNQA and that brought into question the significance of the nation-to-nation relationship acknowledged in 2002.¹³

In a related development, the social and environmental impact statement that Hydro-Québec prepared to assess the effects of the Rupert River diversion not only examined the effects on the environment and the
Crees but on the “Jamesiens,” a new ethnic label coined for Québécois living in the region’s non-Cree towns and work camps (Hydro-Québec 2004). The development of a regional non-Cree collective entity had earlier roots, but it was now recognized in new ways, and its claims, which were not yet specified, were expanded to be Cree-like. Through the process specific and diverse groups of long-term, non-Cree municipal residents and temporary workers were acquiring regional status. These populations of Québécois living in the region need to legitimately be part of impact assessments and governance processes in the region. But the creation of new ethnicities and municipal entities at the hands of governments and government corporations does not ensure their involvement on terms that they themselves would desire. The oppositional use of this ethnic category undermines the recognition afforded the Crees, and it creates regional conflicts and oppositions by making it appear as if the interests of one ethnic group, which is part of Quebec’s majority population, are in competition with those of the Crees. The changes wrought by neoliberalism therefore include the creation of new arenas of ethnic and national conflict and opposition. Cree leaders are well aware of this development, and their not-yet-well-developed plans to create alliances with other populations regionally and across Quebec and Canada have now increased in urgency.

Similarly, the neoliberal practice of transferring former state resources, prerogatives, and responsibilities to the private or local and regional governmental sectors is now making the transfer of resource royalties possible, even though the resource revenues are now linked to the Crees’ taking over responsibilities for the economic and social development of their communities from senior governments. The agreement gives the Crees a minimum of $70 million each year, which is indexed to the value of the resources taken from the region (91 percent electricity, 6 percent forestry, and 2 percent mining as of 2007), from the end of the second year of the agreement’s fifty-year term.

Some Crees believe these funds will reduce their susceptibility to annual budgetary approvals by government departments and attendant political controls and leave them to govern their own affairs more fully (Moses 2002). The more modest funding under the 1975 agreement made possible, and was a necessary condition for, the major political struggles that the Crees engaged in the 1980s and 1990s. The funding also contributed to the smaller-scale, everyday decisions by which Crees control their communities and many aspects of their lives, including the continuing use of
their lands. Cree leaders also see the new funds they derive from resource rents on development of their territory as a recognition of their governance of the territory (Saganash 2002, 126). Nevertheless, the 2002 funding provisions are in some ways a response to the end of funding under the JBNQA in 1997 and therefore reflect a continuing need for funding over and above operating costs by Cree political and social institutions. Although they arise from different legal recognitions than compensation funds, resource rents nevertheless must also be calculated and transferred annually and can be delayed or interrupted. To the extent that this risk is ameliorated by accumulating Cree capital, the socio-economic responsibilities for managing the funds for future generations offer possibilities, challenges, and entrapments.

The funding provisions of the 2002 agreement also reflect a priority among nearly all Crees for socio-economic development. The growth of the Cree population has made nearly all Crees deeply concerned about finding ways to create employment for the growing number of youth who will not make hunting their central productive activity, although hunting does remain an important part of their collective lives. The failure of the first hydroelectric development and of the rapid expansion of commercial forestry to make significant contributions to the social economy of Cree communities has convinced Crees that they need to and can do better. Several subsidiary agreements signed in 2002 addressed these goals. But the claim that the Crees need economic development has led many non-Crees and governments to conclude that economic development of the region is the same for both Crees and non-Crees. This conclusion was used by governments to legitimate the 2002 agreement and to obscure different economic views among Crees and non-Crees. Bernard Landry, the premier of Quebec in 2002, declared that with the new agreement "la paix est signée entre nous" (Landry 2002), and some analysts concurred (Trudel 2002, 119). This discourse echoes and renews expectations, anticipated in 1975, that the Crees' acceptance of substantial economic benefits will have the effect of reducing their roles in national society to those appropriate to investors and beneficiaries of economic developments.

Cree Visions and Practices of Co-Governance Today

Cree hunting leaders, like most Crees today, recognize the need for Crees and non-Crees to develop resources such as forestry for family and
community well-being. But most Crees want respectful and effective participation in dialogues and decisions that will protect the land as it is used. Today, this means restricting forest cutting, controlling new developments in important ways, and setting aside environmentally protected areas. Quebec has shown few signs to date of limiting or controlling development, and under neoliberal ideals it has moved away from supporting mixed social and economic goals in general, although it has made international commitments to expand protected areas.

These differences are apparent in the way different groups have responded to the effects of development. For example, in a 1999 court affidavit, François Mianscum, a ndoho ishee ochimauch, described the forestry situation prior to the 2002 agreement:

I understand the forestry workers need their work and that it is possible to share the land. However, they must understand that we Crees also need our land to survive. I have been on my Ndoho Ishee since I was 15 years old. I believe I am now 68 years. I have seen what they have [done] to the land. This is not proper sharing ...

This summer, the forestry company wants to continue to cut ... The foresters told me this. They flew in by helicopter ... I told the gentlemen that I knew that this paper would be thrown away and that my desires would not be respected ...

What I see happening is the fact that their so-called consultations result in no respect for their own words. I do not want the situation to get worse with the younger generation. There are more and more conflicts on the land between the Crees and the loggers.

I think the foresters should stop logging until they respect the Cree use of the land. The loggers should do what we ask them to do."

Mianscum eloquently acknowledges the needs of other people, such as non-Cree forestry workers, and that there are effective ways to share the land. But he makes clear that this sharing is not occurring and that his needs are not being taken into account. He makes clear that the forestry companies were engaging in sham consultations and that he himself was not properly involved in decisions.

The word that occurs at the key points in Mianscum's affidavit is respect. By respect, he does not mean a willingness to meet and consult — to be acknowledged only to be ignored in practice. In a remarkable turn of
phrase, he indicates that respect does not depend on getting his own way, or solely on consultation, but on companies putting into practice agreements; it depends on companies respecting their own words.

Mianscum’s comments reveal that the argument by the Quebec government and corporations that the 2002 agreement reflects a full coincidence of interests with the Cree because both Cree and non-Cree want jobs and contracts ignores that the Cree have other goals. His comments show how neoliberalism blinds those engaged by its reality to the goals of others that do not fit a world defined by markets and how neoliberalism hides the full effects of market-led developments on others.

The 2002 agreement, however, did go beyond market visions because of Cree initiatives. The forms of forestry decision making in the agreement recognized Cree patterns of tenure and governance. According to the agreement, groups of Cree hunting territories will be used as units to manage commercial forestry cutting. The hunting leaders of each group of territories are to meet with Cree regional or local government staff, the local representatives of the Ministère des Ressources naturelles, and the foremen or local foresters of the logging companies to plan the location of small areas to be fully protected and those areas that should not be cut soon. The agreement rules provide that a certain percentage of the hunting territories will remain forested and useable by hunters at all times. However, market factors significantly limited the size of the areas to be protected. Cree have long sought small-group, face-to-face settings for decision making in which hunting leaders could effectively reach agreements that only they could make with loggers about plans for cutting on particular hunting territories and for day-to-day logging operations (Feit and Beaulieu 2001, and see Mianscum above). This kind of decision making is typical among Cree hunting leaders, and it characterized Cree governance and beaver co-governance.

These parts of the agreement, however, have not yet been successfully implemented (see Scott 2005 for an initial critical assessment of these provisions). The areas defined for protection by the agreement have proved to be too limited for many hunting leaders. Consultation processes established at several levels have improved conditions somewhat, but the three-year transition period for the implementation of these forestry provisions (which was partly to help coordinate the implementation with changes that were being planned for forestry regimes in Quebec more generally) has been extended four times. Cree consented to these extensions but with increasing worries and uncertainties. The
most recent changes in forestry regime management and planning in Quebec ignore the provisions of the 2002 agreement and highlight the difficulties of respecting commitments.

The main co-governance processes envisaged in the agreement have therefore not been implemented systematically to date, and their prospects are uncertain. But most Crees remain committed to trying to put this agreement into practice, in part because they have had success in the past in using state governance practices to sustain and advance Cree governance (and a fragmented co-governance) and in part because they want to see a regulated development of regional resources proceed to meet the needs of a growing population.

Conclusion

In the early 1970s, Crees fought their exclusion from regional governance and created dialogues and negotiations with governments that led to a 1975 agreement that very imperfectly acknowledged an already established system of co-governance that went back to the 1910s. When the 1975 agreement regarding co-governance was ignored, the Crees more or less continuously opposed several major government and corporate projects from the mid-1980s to 2000. The opposition was intended to, and did, create renewed dialogues. The ensuing 2001-2 negotiations addressed items on the Cree agenda that had previously been excluded from consideration. These negotiations were entered into by the governments of Canada and Quebec partly because earlier Cree opposition had posed a significant risk to new large-scale natural resource developments and partly because the dominance of neoliberal theories and practices made new arrangements desirable. The Crees are now trying to implement another imperfect co-governance agreement that was signed in 2002. When Crees signed the 1975 agreement, they were not denying themselves other options for action if they later decided they needed them. The events of the 1980s and 1990s confirmed this conviction, even if governments, corporations, and several social analysts thought that Crees had compromised themselves in 1975 and had weakened their capacity for autonomy and opposition campaigns. Crees are once again trying to enhance their self-governance and co-governance. They are not systematically denying themselves other options in the future. For many Crees, the agreements express their relational cosmology of acknowledging coexistence; their
lived self-governance; their historical experience with co-governance; their present and ongoing, albeit fragmented, forms of co-governance; and the need to develop new economic opportunities in co-governance with non-Crees, all of which were expressed eloquently by François Mieuscum in 1999.

Giving up on agreements to solely emphasize cosmopolitan or oppositional social movements would diminish Cree, for it would devalue their visions, practices, and historical experiences. It would shift their struggle for survival more to the terrain of neoliberal governmentalities and their cosmopolitan assumptions. This is not the case for all Indigenous struggles, but it is one of the ways many Cree seek to live and survive in a world shaped significantly by both Cree and non-Crees.

Governments and corporations want an agreement that will bring social peace for their own reasons and with their own expectations of control. Governments and corporations have envisaged, since at least 1975, creating the conditions in which James Bay Creees would not oppose projects. Governments imagined that Creees would take on modern state and market visions and values as their own, thereby defining themselves and limiting their own conduct to what is proper to citizens, minorities, consumers, municipalities, corporations, or investors. This expectation has not been fulfilled, as Cree actions and statements make clear.

Creees have experienced how colonial and neoliberal governance has provided governments and corporations with the rationale and means to ignore or otherwise undermine their own recognitions of Cree governance and their mutual history of co-governance. Neoliberal practices have also contributed to the accelerating development of the region, a development that has also accelerated the dispossession of Creees from parts of their lands (but only parts) and disrupted Cree lives and communities. But the dominance of transnational markets and mobile capital has also created incentives for government and corporate institutions to establish effective political relations with Creees. Indigenous visions and practices, however, are encompassed by the limits of market-based visions.

Neoliberalism has also changed the relationships among states, markets, corporations, financial institutions, and civil society in ways that have changed the terrain on which Creees oppose government and corporate policies, projects, and governance. These changes have shaped struggles and weakened opposition in important ways. But they have also created new forms of opposition and new opportunities for negotiations and agreements. They do not disable all oppositional strategies, nor do they
uniformly close off all possibilities for negotiations that may enhance the possibility of further engagements.

Cree visions and practices of governance and co-governance have been consistently revised over decades, but the processes have been difficult and the promises and vision unfulfilled. The aspirations that are present today in fragmented form are nevertheless actively lived as existing relationships and visions. They encompass decades of history and lived experiences as well as visions for the future.
Chapter 3: Neoliberal Governance and James Bay Cree Governance

In this chapter I draw on the insights and work of many Cree people and other colleagues. I want to acknowledge my special debt for comments on this chapter by Philip Awashish, Mario Blaen, Brian Craik, Jasmin Habib, and Colin Scott. I also want to thank Sam C. Gull, Peter Hutchins, Monica Maksamian, George Obilin, Eva and the late Joe Ottereyes, Alim
Penn, and Alan Sagatash Jr. Others go unlisted but not forgotten. This research was supported financially by the Social Sciences and Humanities Research Council of Canada through an MCGI grant to William Coleman and a Standard Research Grant to the author.

1 For a particularly sympathetic and frank statement that expresses some of these concerns in a positive context of concern, see Jean Rousseau (2000a, 2004b, see also 2003) offers a very different and more confrontational analysis in some respects, but he is equally concerned with, and makes similar observations in relation to, the issues I address here. The advice that opposition needs to be more systematic and explicit is a subset in numerous other analyses. The integrity of the analysts who take the risk to express their concerns directly in their writing deserves to be acknowledged, and I offer my comments with respect for their efforts.

2 J.S.C. Watt to W.W. West, 17 August 1929, Provincial Archives of Manitoba (PAM), Hudson’s Bay Company Archives (HBCA), Reel E725/2, Personal Papers, W.R. Parsons, J.S.C. Watt, 1925–43. The term Indian was common during the period, and it is often used self-referentially in Cree communities in English.

3 Chief Sagatash to Department of Indian Affairs, 3 August 1936, Library and Archives Canada (LAC), RG 10, Department of Indian Affairs, Vol. 8750, File 420-10-4, Reel C8106.

4 Deputy Minister to the Commissioner, RCMP, 10 December 1942, LAC, RG 10, Vol. 8750, File 420-10-3, Reel C8106.

5 Quebec officials adopted exactly the same practices (Tremblay 1939, 3). See also Marcel Brandt’s testimony in Superior Court in Montreal in the case re: Chief Robert Kainshaw, et al. v. The Attorney General of the Province of Quebec and the Quebec Hydro-electric Commission (1972).

6 Text delivered to the Special Joint Committee of the Senate and the House of Commons Appointed to Examine and Consider the Indian Act. Morantz quotes from another anonymous record.

7 The terminology I describe was in use in southern Cree communities; further north, where caribou hunting was more important, a different terminology prevailed. I am indebted to Brian Craik for pointing this out.

8 Transcript of a general meeting held at Waswanipi, 3 March 1972, manuscript prepared by Ignatius LaRocque. I want to thank Ignatius LaRocque for kindly providing me with copies of the transcript.

9 Awashish also notes that the agreement “provided a means for achieving, to some extent, their [Cree] vision for the enhancement and advancement of Innu [Cree] governance but constrained by the existing political and legal environment of the 1970s — [,] did not recognize Aboriginal rights — [,] the inherent right of Aboriginal self-government” (2002, 125, see also 137).

10 Couture also attributes these views to the president of the regional Crown corporation at the time of the JIBNQA (see Wilkinson and Masella 2002, 218).

11 The diversity of views was partly because of greater diversity within Cree society. A fuller account of the responses to the agreement can be found in O'Brien (2007).

12 A full account of the changes would include how Quebec nationalists rethought their own sovereignty strategies. This rethinking included the following: defining who is a Quebecer; the need for the support of allophones in a referendum; giving the demographics of Quebec; and the importance of limiting Indigenous opposition to international recognition for an independent Quebec (GCC 1998).
13 I am indebted to Philip Awashish, Brian Craik, George Oblin, Alan Penn, and Colin Scott for information on the 2002 agreement and related events and for conversations and insights into the post-JBINQA period over the course of many years. I, however, am responsible for the statements in this text.


15 I am indebted to Brian Craik for his help in understanding the implementation of the forestry provisions of the 2003 agreement, but, again, I am responsible for this text.

16 A new agreement was signed by the Cree and the federal government in 2008. It has some features similar to the 2002 agreement with Quebec and Hydro-Quebec, but the differences are also significant and require separate analysis.
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